

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-506

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 2, 2004*Codification
District of
Columbia
Official Code*

2001 Edition

2004 Fall
Supp.West Group
Publisher

To amend, on an temporary basis, the Certified Capital Companies Act of 2003 and the Insurance Regulatory Trust Fund Act of 1993 to permit the Department of Insurance, Securities and Banking to spend fees generated from the Certified Capital Companies Act of 2003; and to amend the Captive Insurance Company Act of 2000 to repeal the sponsored cell provisions and replace them with provisions for the establishment, operation, and liquidation of segregated accounts.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Captive Insurance Company Enhancement Temporary Amendment Act of 2004".

Sec. 2. The Certified Capital Companies Act of 2003, effective March 10, 2004 (D.C. Law 15-87; 50 DCR 10982), is amended by adding a new section 9a to read as follows:

"Sec. 9a. Fees deposited in Insurance Regulatory Trust Fund.

"All fees collected pursuant to this act shall be deposited in the Insurance Regulatory Trust Fund established by section 3 of the Insurance Regulatory Trust Fund Act of 1993, effective October 21, 1993 (D.C. Law 10-40; D.C. Official Code § 3-1202), and expended for the purposes authorized by the Fund."

Sec. 3. Section 3(a) of the Insurance Regulatory Trust Fund Act of 1993, effective October 21, 1993 (D.C. Law 10-40; D.C. Official Code § 31-1202 (a)), is amended by striking the phrase "this act" and inserting the phrase "this act and the Certified Capital Companies Act of 2003, effective March 10, 2004 (D.C. Law 15-87; 50 DCR 10982)," in its place.

*Note,
§ 31-1202*

Sec. 4. The Captive Insurance Company Act of 2000, effective October 21, 2000 (D.C. Law 13-192; D.C. Official Code § 31-3901 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 31-3901), is amended as follows:

- (1) Paragraph (9) is amended by striking the phrase "sponsored captive insurer".
- (2) Paragraphs (20), (24), and (25) are repealed.
- (3) A new paragraph (23A) is added to read as follows:

*Note,
§ 31-3901*

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“(23A) “Segregated account” means a separate account established and maintained by any captive insurer:

- “(A) In which the minimum capital and surplus required by applicable law is provided by one or more persons;
- “(B) That is formed or licensed under the provisions of this act;
- “(C) That insures risks of separate participants through contract;
- “(D) That is comprised of one or more participants, who are authorized to act on matters relating to the segregated account; and
- “(E) That segregates each participant’s liability.”.

(b) Section 7 (D.C. Official Code § 31-3906) is amended as follows:

Note,
§ 31-3906

(1) Subsection (a) is amended by striking the phrase “sponsored captive insurer.”.

(2) Subsections (c), (d), (e), (f), (g), and (h) are repealed.

(c) New sections 17a and 17b are added to read as follows:

“Sec. 17a. Segregated accounts.

“(a)(1) Upon payment of the applicable fee under section 4, a captive insurer may form one or more segregated accounts under this act to:

- “(A) Insure risks of one or more participants; or
- “(B) Segregate its assets and liabilities from the assets and liabilities of its segregated accounts.

“(2) The assets and liabilities of each segregated account shall be held separately from the assets and liabilities of all other segregated accounts.

“(3) A captive insurer shall be a single legal entity and each segregated account of a captive insurer may be established as a separate legal entity, which shall constitute a legal entity separate from the captive insurer. Each segregated account shall be separately identified or designated as being a part of the captive insurer.

“(4) A captive insurer that maintains any segregated account shall pay an additional annual fee in an amount to be established by the Commissioner for each segregated account.

“(b)(1) A captive insurer may create and issue shares in one or more classes or series for one or more segregated accounts. The proceeds of the issuance of shares shall be included in the assets of the segregated account for which the shares were issued.

“(2) The proceeds of the issuance of shares, other than segregated account shares, shall be included in the captive insurer’s general assets.

“(3) A captive insurer may pay a dividend on segregated account shares of any class or series from segregated account assets whether or not a dividend is declared on any other class or series of segregated account shares or any other shares. The dividends shall only be paid to the shareholders of the segregated account and in accordance with the rights of the shares.

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“(c)(1) Any act, matter, deed, agreement, contract, instrument under seal, or other instrument or arrangement which is to be binding on or to inure to the benefit of a segregated account or accounts shall be executed by the captive insurer for and on behalf of the segregated account or accounts, shall be identified and, where in writing, shall indicate that the execution is in the name of, or by or for the account of, the segregated account or accounts.

“(2) If a captive insurer is in breach of paragraph (1) this subsection:

“(A) Notwithstanding any provisions to the contrary in the captive insurer’s organizational documents or in any contract with such company or otherwise, the directors of the captive insurer shall incur personal liability for the liabilities of the captive insurer and the segregated account under the act, matter, deed, agreement, contract, instrument, or arrangement that was executed; and

“(B)(i) Unless they were fraudulent, reckless, negligent, or acted in bad faith, the directors of the captive insurer shall have a right of indemnity, in the case of a matter on behalf of or attributable to a segregated account or accounts, against the assets of that account; or

“(ii) In the case of a matter not on behalf of or attributable to any segregated account, the directors shall have a right of indemnity against the general assets of the captive insurer.

“(3) Notwithstanding the provisions of paragraph (2)(A) of this subsection, a court may relieve a director of all or part of this personal liability thereunder if he or she satisfies the court that he or she should be relieved because the director:

“(A) Was not aware of the circumstances giving rise to the liability and, in being not so aware, the director was not fraudulent, reckless or negligent, and did not act in bad faith; or

“(B) Expressly objected, and exercised such rights as a director, whether by way of voting power or otherwise, so as to try to prevent the circumstances giving rise to the liability.

“(4) If, pursuant to the provisions of paragraph (3) of this subsection, the court relieves a director of all or part of his or her personal liability under paragraph (2)(A) of this subsection, the court may order that the liability in question shall instead be met from the portion of the segregated account or general assets of the account of the captive insurer as may be specified in the order.

“(5) Any provision in the organizational documents of a captive insurer, or any other contractual provision under which the captive insurer may be liable, which purports to indemnify directors in respect of conduct which would otherwise disentitle them to an indemnity by virtue of paragraph (2)(B) of this subsection, shall be void.

“(d)(1) The assets of a captive insurer shall be either segregated account assets or general assets. The segregated account assets comprise the assets of the captive insurer held

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within or on behalf of the segregated accounts of the captive insurer. The general assets of a captive insurer comprise the assets of the captive insurer which are not segregated account assets.

“(2) The assets of a segregated account are comprised of assets representing the capital stock and reserves attributable to the segregated account, and all other assets attributable to or held within the segregated account. For the purposes of this paragraph, “reserves” includes retained earnings, capital surplus, and paid-in capital.

“(3) The directors of a captive insurer shall establish and maintain, or cause to be established and maintained, procedures:

“(A) To segregate, and keep segregated, account assets separate and separately identifiable from general assets;

“(B) To segregate, and keep segregated, account assets of each segregated account separate and separately identifiable from segregated account assets of any other segregated account; and

“(C) Where relevant, to apportion or transfer assets and liabilities between segregated accounts, or between segregated accounts and general assets of the segregated account captive insurer.

“(4) Segregated account assets shall:

“(A) Only be available and used to meet liabilities of the creditors with respect to that segregated account, and those creditors shall thereby be entitled to have recourse to the segregated account assets attributable to that segregated account; and

“(B) Not be available or used to meet liabilities to, and shall be absolutely protected from, the creditors of the captive insurer who are not creditors with respect to a particular segregated account, and those creditors shall not be entitled to have recourse to such protected segregated account assets.

“(e)(1) If a liability of a captive insurer to a person arises from a matter, or is otherwise imposed, with respect to a particular segregated account, the liability shall extend only to, and that person shall, with respect to that liability, be entitled to have recourse only to:

“(A) First, the segregated account assets attributable to such segregated account; and

“(B) Second, the captive insurer’s general assets, to the extent that the segregated account assets attributable to the segregated account are insufficient to satisfy the liability, and to the extent that the captive insurer’s general assets exceed any minimum capital amounts lawfully required by this act.

“(2) If a liability of a captive insurer to a person arises otherwise than from a matter in respect of a particular segregated account or accounts, or is imposed otherwise than in respect of a particular segregated account or accounts, the liability shall extend only to, and that person shall, with respect to that liability, be entitled to have recourse only to the captive

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insurer's general assets.

"(3) Liabilities of a captive insurer not attributable to any of its segregated accounts shall be discharged from the segregated account captive insurer's general assets. Income, receipts, and other property or rights of, or acquired by, a captive insurer not otherwise attributable to any segregated account shall be attributed to the captive insurer's general assets to the extent that the captive insurer's general assets exceed any minimum capital amounts lawfully required by this act.

"(f)(1) Each segregated account shall be accounted for separately on the books and records of the captive insurer to reflect the financial condition and results of operations of the segregated account, including net income or loss, dividends, or other distributions to participants, and such other factors as may be provided by the participant contract or required by the Commissioner.

"(2) No sale, exchange, or other transfer of assets may be made by such captive insurer between or among any of its segregated accounts without the written consent of the segregated accounts and the Commissioner.

"(3) No sale, exchange, transfer of assets, dividend, or distribution may be made from a segregated account to any person without the Commissioner's prior written approval and approval shall not be given if the sale, exchange, transfer, dividend, or distribution would result in the insolvency or impairment with respect to a segregated account.

"(4) Each segregated account captive insurer shall annually file with the Commissioner such financial reports as the Commissioner shall require, which shall include financial statements detailing the financial experience of each segregated account.

"(5) Each captive insurer shall notify the Commissioner within 10 business days of any segregated account that is insolvent or otherwise unable to meet its claims or expense obligations.

"(g)(1) No participant contract shall take effect without the Commissioner's prior written approval. The addition of each new segregated account or the withdrawal of any participant from any existing segregated account shall constitute a change in the strategic business plan of that segregated account requiring the Commissioner's prior written approval.

"(2) Any legal person or legal entity may be a participant in a segregated account formed or licensed under this act.

"(3) A participant in a segregated account need not be a shareholder insured within the segregated account or by the captive insurer or any affiliate thereof.

"Sec. 17b. Liquidation and rehabilitation of segregated accounts.

"(a) Notwithstanding any statutory provision or rule of law to the contrary, in the liquidation of a captive insurer, the liquidator:

"(1) Shall deal with the company's assets only in accordance with the procedures set out in subsection (c)(6) of this section; and

"(2) In the discharge of the claims of creditors of the captive insurer, shall apply

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the captive insurer's assets to those entitled to have recourse thereto under the provisions of this section.

"(b)(1) A petition for a liquidation or rehabilitation order with respect to a segregated account of a captive insurer may be made by:

"(A) The segregated account captive insurer;

"(B) The majority of the directors of the segregated account captive insurer;

"(C) Any creditor of the segregated account; or

"(D) The Commissioner.

"(2) Notice of a petition to the court for a liquidation or rehabilitation order with respect to a segregated account of a captive insurer shall be served upon:

"(A) The captive insurer;

"(B) The Commissioner; and

"(C) Such other persons as the court may direct.

"(c)(1) Subject to the provisions of this section, a liquidation or rehabilitation order with respect to a segregated account may be entered if, in relation to a captive insurer:

"(A) The segregated account assets attributable to a particular segregated account of the captive insurer, and in those cases where creditors of the captive insurer with to that segregated account are entitled to have recourse to the captive insurer's general assets, are, or are likely to be, insufficient to discharge the claims of creditors with respect to the segregated account; and

"(B) The order would achieve the purposes set out in paragraphs (3)(A) and (B) of this subsection.

"(2) A liquidation or rehabilitation order may be made with respect to one or more segregated accounts.

"(3) A liquidation or rehabilitation order shall direct that the business and segregated account assets of, or attributable to, a segregated account shall be managed by a liquidator or rehabilitator specified in the order for the purpose of:

"(A) The orderly closing or rehabilitation of the business of, or attributable to, the segregated account; and

"(B) The distribution of the segregated account assets, or assets attributable to the segregated account, to those entitled to having recourse thereto.

"(d) The liquidator or rehabilitator of a segregated account:

"(1) Shall have all the functions and powers of the directors responsible for the business and segregated account assets of, or attributable to, the segregated account;

"(2) May at any time apply to the court for directions as to the extent or exercise of any function or power, for the liquidation or rehabilitation order to be discharged or modified, or for any matter occurring during the course of the liquidation or rehabilitation.

"(3) In exercising his functions and powers, shall:

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“(A) Be deemed to act as the agent of the captive insurer; and

“(B) Not incur personal liability except to the extent that he acts fraudulently, recklessly, negligently, or in bad faith.

“(e) Upon the filing of a petition for, and during the period of operation of, a liquidation or rehabilitation order:

“(1) No proceedings may be instituted or continued by or against the captive insurer or segregated account in respect of which the liquidation or rehabilitation order was made; and

“(2) Except by leave of the court, no action may be taken to enforce any security or to execute legal process in respect of the business or segregated account assets of or attributable to the segregated account in respect of which the liquidation or rehabilitation order was made.

“(f) During the period of operation of a liquidation or rehabilitation order:

“(1) The functions and powers of the directors shall cease with respect to the business of, or attributable to, the segregated account or segregated account assets for which the order was made; and

“(2)(A) The liquidator or rehabilitator of the segregated account shall be entitled to be present at all meetings of the captive insurer or segregated account and to vote at the meetings, as if he or she were a director of the captive insurer; and

“(B) Unless there are no creditors that are entitled to have recourse to the captive insurer’s general assets, the liquidator’s or rehabilitator’s voting authority includes matters concerning the captive insurer’s general assets.

“(g)(1) The court shall not discharge a liquidation or rehabilitation order issued pursuant to this section unless it appears to the court that the purpose for which the order was made has been achieved, substantially achieved, or is incapable of being achieved.

“(2) The court, on hearing a petition for the discharge or variation of a liquidation or rehabilitation order, may make any interim order or adjourn the proceeding.

“(3) Upon the issuance of an order discharging a liquidation or rehabilitation order for a segregated account of a captive insurer on the ground that the purpose for which the order was made had been achieved or substantially achieved, the court may direct that any payment made by the liquidator or rehabilitator to any creditor of the captive insurer, with respect to that segregated account, shall fully satisfy the liabilities of the captive insurer to that creditor with respect to that segregated account, and the creditor’s claims against the captive insurer with respect to that segregated account shall be extinguished.”.

(d) Section 9 (D.C. Official Code § 31-3908) is amended as follows:

(1) Subsection (a)(3) is amended by striking the phrase “a rental captive insurer, for a sponsored captive insurer,” and inserting the phrase “or a rental captive insurer” in its place.

Note,
§ 31-3908

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(2) Subsection (f)(2) is amended by striking the phrase "a rental captive insurer, for a sponsored captive insurer," and inserting the phrase "or a rental captive insurer" in its place.

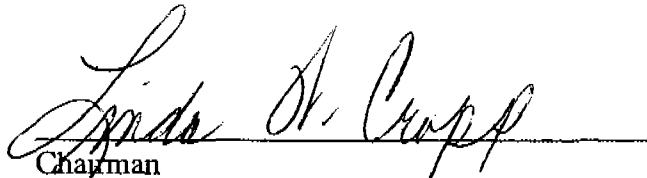
Sec. 5. Fiscal impact statement.


The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.2(c)(3)).

Sec. 6. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.


Chapman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED
August 2, 2004

DISTRICT OF COLUMBIA REGISTER
COUNCIL OF THE DISTRICT OF COLUMBIA
OFFICE OF THE BUDGET DIRECTOR

SEP 1 1 2004 **ENROLLED ORIGINAL**
FISCAL IMPACT STATEMENT

Bill Number:	Type: Emergency () Temporary (x) Permanent ()	Date Reported: June 29, 2004
Subject/Short Title: "Captive Insurance Company Enhancement Temporary Amendment Act of 2004"		

Part I. Summary of the Fiscal Estimates of the Bill

	YES	NO
1. It will impact spending. (If "Yes," complete Section 1 in the Fiscal Estimate Worksheet).	()	(x)
a) It will affect local expenditures.	()	(x)
b) It will affect federal expenditures.	()	(x)
c) It will affect private/other expenditures.	()	(x)
d) It will affect intra-District expenditures.		
2. It will impact revenue. (If "Yes," complete Section 2 in the Fiscal Estimate Worksheet).	()	(x)
a) It will impact local revenue.	()	(x)
b) It will impact federal revenue.	()	(x)
c) It will impact private/other revenue. See below	()	(x)
d) It will impact intra-District revenue.		
3. The bill will have NO or minimal fiscal impact. (If "Yes," explain below).	(x)	()

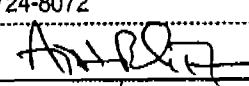
Explanation:

The proposed legislation does not have any fiscal impact on the District's General Fund. The proposed legislation will not require additional staff or resources. However, the passage of this bill will allow for the DISB to do a more thorough regulatory job in the field of Captive Insurers.

Part II. Other Impact of the Bill

If you check "Yes" for each question, please explain on separate sheet, if necessary.

	YES	NO
1. It will affect an agency and/or agencies in the District. Department of Insurance, Securities, and Banking	(x)	()
2. Are there performance measures/output for this bill?		
3. Will it have results/outcome, i.e., what would happen if this bill is not enacted? Several Captive Insurance companies will refuse to domicile in the District.	()	(x)
	(x)	()
4. Are funds appropriated for this bill in the Budget and Financial Plan for the current year?	()	(x)

Sources of information:	Councilmember: Sharon Ambrose, Chair, Committee on Consumer and Regulatory Affairs
	Staff Person & Tel: David Grosso - 724-8072
	Council Budget Director's Signature: 

6/27/04

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AN ACT
D.C. ACT 15-507

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To amend, on an emergency basis, the District of Columbia Public Assistance Act of 1982 to provide for confidentiality of information for individuals applying for or receiving public benefits through the Department of Human Services, Income Maintenance Administration, and to authorize the Mayor to issue rules pertaining to the release and disclosure of such records.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Public Assistance Confidentiality of Information Emergency Amendment Act of 2004".

Sec. 2. Section 904 of the District of Columbia Public Assistance Act of 1982, effective April 20, 1999 (D.C. Law 12-241; D.C. Official Code § 4-209.04), is amended to read as follows:

Note,
§ 4-209.04

"904. Confidentiality of information.

"(a) For the purposes of this section, the term:

"(1) "Administering" means running public benefits programs in a manner that complies with District of Columbia or federal laws, rules, or regulations.

"(2) "Applicant" means an individual who has submitted an application for services under one or more IMA programs.

"(3) "Disclosure" means the release, transfer, provision of, provision of access to, or distribution of information in any manner by an entity holding the information to a person outside of the entity.

"(4) "Health Insurance Portability and Accountability Act" means the Health Insurance Portability and Accountability Act of 1996, approved August 21, 1996 (Pub. L. 104-191; 110 Stat. 1936), and the regulations issued thereunder, at 45 C.F.R. Parts 160 and 164, enacted for the primary purpose of safeguarding the privacy of an individual's protected health information by restricting the use or disclosure of the information to certain limited circumstances, such as treatment by medical providers, payment of medical bills, or health care operations.

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“(5) “IMA” means the Income Maintenance Administration within the Department of Human Services.

“(6) “IMA programs” means public benefit programs, including TANF, POWER, Medical Assistance (including Medicaid), Food Stamps, Interim Disability Assistance, Burial Assistance, Refugee Resettlement Assistance, General Assistance for Children, and programs under titles I, V-A, IV-D, XVI, or XIX of Title 21 of the Social Security Act, approved August 14, 1935 (49 Stat. 757; 42 U.S.C. § 301 *et seq.*).

“(7) “Individual’s representative” means a person authorized in writing to review or copy an applicant’s or recipient’s record, or submit or receive information on behalf of the applicant or recipient by:

“(A) The applicant or recipient;

“(B) A court of competent jurisdiction; or

“(C) A person otherwise authorized by law to make decisions on behalf of the applicant or recipient, including decisions related to health care, such as the custodial parent, legal guardian, or personal representative, as set forth at 45 C.F.R. § 164.502(g).

“(8) “Recipient” means an applicant who meets the eligibility requirements and has been determined eligible to receive services through an IMA program.

“(9) “Personal notes” means:

“(A) Mental health information regarding an applicant or recipient disclosed to a mental health professional in confidence by other persons on condition that such information not be disclosed to the applicant or recipient, or to other persons; and

“(B) A mental health professional’s speculations about the applicant or recipient.

“(10) “Personal representative” means a person who:

“(A) Under applicable law, has the authority to act on behalf of an individual who is an adult or an emancipated minor in making decisions related to health care;

“(B) Is an executor, administrator, or other person who, under applicable law, has authority to act on behalf of a deceased individual or the individual’s estate; or

“(C) Is a parent, guardian, or other person acting in loco parentis who may have the authority to act on behalf of an unemancipated minor, as more fully set forth at 45 C.F.R. § 164.502(g).

“(11) “Protected health information” means any individually identifiable information, whether oral or recorded, in any form or medium, that is created or received and relates to the past, present, or future physical or mental health condition of an applicant or recipient, or to the payment for health care for an applicant or recipient.

“(12) “Record” or “applicant’s or recipient’s record” means any hard copy or electronic item, collection, or grouping of information, which includes protected health information, relating to an applicant or recipient that is maintained, collected, used, or disseminated for the purpose of administering an IMA program. The term “record” or

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"applicant's or recipient's record" includes information that the government of the District of Columbia collects and stores by the operation or administration of computerized public benefits eligibility screening tools.

"(b) IMA shall keep records to document information about applicants and recipients relating to IMA programs. The information shall be privileged and confidential and shall only be used or disclosed in accordance with this section.

"(1) The applicant or recipient has a right to privacy and shall be provided with a written notice about IMA's privacy practices and the conditions governing inspection of records. A copy of the notice shall be maintained in the applicant's or recipient's record.

"(2) IMA shall secure the written authorization of the applicant, recipient, or individual's representative pursuant to the requirements of 45 C.F.R. § 164.508 before requesting or disclosing information about the applicant or recipient to or from other agencies or individuals. A copy of the authorization shall be maintained in the applicant's or recipient's record.

"(3) An applicant or recipient shall submit a verbal or written request and an individual's representative shall submit a written request to access information in an applicant's or recipient's record, including protected health information. Except for psychotherapy and personal notes, and information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding, the IMA shall make all information in the applicant's or recipient's record available to the applicant, recipient, or the individual's representative.

"(A) IMA shall permit inspection or provide a copy of the information no later than 30 days after receiving the written request if the information is available on-site unless the applicant or recipient is under investigation pursuant to any provisions of subsection (b) of this section. If the written request is for information that is not maintained by or accessible to IMA on-site and IMA has knowledge of the information and its location, IMA must permit inspection or provide a copy of the information no later than 60 days after receiving the written request.

"(B) If IMA authorizes disclosure to a third party, other than the applicant or recipient's individual representative, pursuant to a valid authorization, the disclosure shall be limited to the information specifically identified in a written authorization from the applicant, recipient, or the individual's representative.

"(4) An applicant, recipient, or individual's representative who believes that information in an applicant's or recipient's record is inaccurate or misleading may request that IMA amend the information by submitting a written request for amendment setting forth the reason for the change, including documentation, where appropriate. Within 60 days after it receives the request, the IMA shall make a determination on the request and either make amendments to the record or deny the request.

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“(A) The IMA may deny a request for amendment if the information sought to be amended:

“(i) Was not created by IMA, unless the individual requesting the amendment provides a reasonable basis to believe that the originator of the protected health information or the information in the record is no longer available to act on the requested amendment;

“(ii) Is not part of the record;

“(iii) Is not available for inspection as provided in paragraph (3) of this subsection; or

“(iv) Is accurate and complete.

“(B) If the request for amendment is denied, the IMA shall provide the applicant, recipient, or the individual’s representative with a written response setting forth the reason for denying the request for amendment and the procedures on how to request reconsideration of the decision, including a statement that the applicant, recipient, or individual’s representative has a right to submit a written statement disagreeing with the denial of all or part of a requested amendment and the basis of such disagreement.

“(C) If the request for amendment is granted, the IMA shall notify the applicant, recipient, or individual’s representative of the decision and how to obtain authorization concerning persons to be notified of the amendment.

“(D) All documentation generated from a request for amendment shall be included in the record of the applicant or recipient.

“(c) All information and records regarding an applicant or recipient provided to or created by the IMA, its representatives, or its employees, in the course of the administration of IMA programs, shall be privileged and confidential and shall only be disclosed:

“(1) To the applicant, recipient, or individual’s representative, in accordance with subsection (b) of this section;

“(2) To a third party, with a written authorization signed by the applicant, the recipient, or the individual’s representative authorizing disclosure of the specific record, or specific parts of the record; or

“(3) Without consent for one of the following purposes:

“(A) To administer IMA programs;

“(B) To aid in any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of IMA programs;

“(C) To administer any federal or federally-assisted program, which provides assistance, in cash or in-kind, or services directly to individuals on the basis of need;

“(D) To verify a state employment services agency for the purposes of providing information about a public assistance recipient’s eligibility for employer tax credits, except that protected health information shall not be disclosed to such agency;

“(E) For an audit or similar activity, such as review of expenditure reports

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or financial review, conducted in connection with the administration of any public assistance program by any governmental entity which is authorized by law to conduct such audit or activity;

“(F) To administer the unemployment compensation program for the District of Columbia or any other state unemployment compensation program, except that protected health information shall not be disclosed to such agency or program;

“(G) To report to the Metropolitan Police Department information on known or suspected instances of physical or mental injury, sexual abuse, or exploitation, or to report to the appropriate authority charged with investigating such allegations information on known or suspected instances of negligent treatment or maltreatment of a child or vulnerable adult receiving aid under circumstances which indicate that the child's or vulnerable adult's health or welfare is threatened; or

“(H) To comply with a court order (a subpoena being insufficient) issued by a court of competent jurisdiction to compel disclosure of an applicant's or recipient's record or testimony of any Mayor's representative concerning an applicant or recipient for purposes directly related to the purposes listed in subparagraphs (A) through (G) of this paragraph.

“(d)(1) The administrator of the IMA shall approve each request for disclosure of a record made pursuant to subsection (c)(3) of this section before the IMA releases the record, or any portion thereof. For each disclosure of a record pursuant to subsection (c)(3) of this section, the IMA shall:

“(A) Record the disclosure in the applicant's or recipient's record;

“(B) Disclose only the information minimally necessary to satisfy the purpose of the request; and

“(C) Maintain a central log accounting for disclosures of protected health information.

“(2) An accounting for an approved disclosure shall contain, at minimum, the following:

“(A) The date of the disclosure;

“(B) The name of the person or entity that received the information and, if known, the address of the entity or person;

“(C) A brief description of the information disclosed; and

“(D) A brief statement of the purpose of the disclosure that states the exact basis for disclosure or, in lieu of that statement, a copy of the written request for disclosure.

“(3) Accounting is not required if the information is disclosed:

“(A) To administer IMA programs, or to carry out treatment, payment, and health care operations;

“(B) To persons involved in the applicant's or recipient's care;

“(C) For national security or intelligence purposes;

“(D) To correctional institutions or law enforcement officials; or

“(E) Prior to April 14, 2003.

“(e) The IMA shall review a requestor’s credentials to verify the requestor’s identity and authority before disclosing records to an applicant, recipient, or individual’s representative, or to a person requesting disclosure of records pursuant to subsection (c)(3) of this section.

“(f) The IMA shall implement appropriate procedures to ensure the security of records and to minimize inadvertent disclosures of confidential records, including protected health information.

“(g) The IMA shall retain all information in an applicant’s and recipient’s record for at least 3 years after the case is closed. A request for a disclosure of information under subsection (c)(3) of this section, along with the supporting documentation for each such request that the IMA is required to maintain under subsection (d) of this section, shall be retained by the IMA for at least 6 years, and shall be disclosed to an applicant, recipient, or individual representative upon written request.

“(h) The IMA shall ensure that IMA employees are trained on the provisions of this section and are aware that unauthorized use or disclosure of records may constitute cause for adverse or corrective personnel action.

“(i) The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et. seq.*), may issue rules to implement the provisions of this section.”.

Sec. 3. Fiscal impact statement.

The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

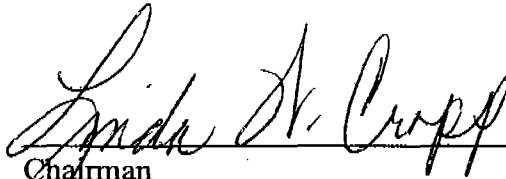
Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia

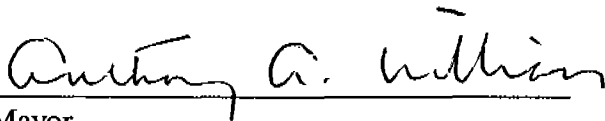
SEP 17 2004

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in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
August 2, 2004

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AN ACT

D.C. ACT 15-508

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 2, 2004Codification
District of
Columbia
Official Code

2001 Edition

2004 Fall
Supp.West Group
Publisher

To amend, on an emergency basis, Chapter 31A of Title 12A of the District of Columbia Municipal Regulations to establish appropriate graphics for the Gallery Place Project.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Gallery Place Project Graphics Emergency Amendment Act of 2004".

Sec. 2. Chapter 31A of Title 12A of the District of Columbia Municipal Regulations (31A DCMR § 3105 *et seq.*), is amended by adding a new subsection 3107.18 to read as follows:

DCMR

"3107.18 Rules for Gallery Place Project Graphics: The code official is authorized to issue a permit for Gallery Place Project Graphics, as defined in subsection 3107.18.1. Gallery Place Project Graphics shall be subject to the rules of this subsection and not to the rules in this chapter pertaining to billboards, poster panels, wall signs, Special Signs, and other specific types of signs, except those specific types of signs indicated below. Gallery Place Project Graphics shall not be subject to subsection 3107.10 or other similar provisions of this chapter that limit the maximum size or height of signs, other than the limitations stated or incorporated into this section. All other provisions of this chapter shall apply, including, but not limited to, subsections 3107.3.4 (permits for electrical signs), 3107.7.1 (projecting signs), 3107.7.2 (roof signs), 3107.7.3 (signs supported by projecting construction), 3107.7.4 (signs on awnings or similar projections), 3107.7.8 (signs on public space), 3107.11 (structural and materials requirements), 3107.13 (dangerous signs), and 3107.14 (obstructive signs).

"3107.18.1 Definitions: As used in this subsection, the following definitions apply:

"Gallery Place Project: (a) The project described in D.C. Official Code § 47-2005(30)(B), except that the lots comprising the project have been combined and are now known as Lot 50 in Square 454; (b) the private alley located between the project and the property known as the MCI Center, Square 455, Lot 47, and (c) the northern facade of the MCI Center.

"Gallery Place Project Graphics: The outdoor graphics and visuals for the Gallery Place Project, including, but not limited to, banners, digital screens, digital video monitors, theater

ENROLLED ORIGINAL

marquees, fixed and animated signs for commercial establishments located within the project, projectors for projecting static and moving images onto the Gallery Place Project, interactive kiosks, and images projected onto the façade of the Gallery Place Project.

“3107.18.2 Additional Requirements and Restrictions: In addition to all other applicable provisions of this chapter not exempted by this subsection 3107.18, Gallery Place Project Graphics and those graphics and visuals located in the public space immediately adjacent to the Gallery Place Project shall be designed, located, erected, hung, placed, posted, painted, displayed, and maintained in compliance with the specifications, drawings, limitations, and requirements set forth in Illustrations 1 through 6, which are incorporated by reference into this section and made an appendix to this chapter (the “Illustrations”).

“3107.18.2.1 Flexibility on Character of Advertisement: Notwithstanding subsection 3107.6, Gallery Place Project Graphics located in those areas identified in the Illustrations as the “Corner Heroic Sign Area” or the “Additional Signage Area” may advertise businesses not located on the premises, including the goods and services sold at such business, provided that the businesses so advertised are located within the Gallery Place Project.

“3107.18.2.2 Displays of Video, Flashing, or Animation: Only that portion of a graphic or visual which is permitted by subsection 3107.6.1 to advertise products or commodities may display video, flashing, or animation.

“3107.18.2.3 Intensity or brilliance of signs: No Gallery Place Project Graphic shall have such intensity or brilliance as to cause glare or impair the vision of any driver, otherwise interfere with the driver's operation of a motor vehicle, or adversely impact an owner's enjoyment of residential property located within the Gallery Place Project.

“3107.18.2.4 Projection at certain locations: Notwithstanding subsection 3107.7.1.1, the following specific rules apply to projecting Gallery Place Project Graphics:

“3107.18.2.4.1 No Gallery Place Project Graphic located in any area shown as cross-hatched in the Illustrations shall project more than 8 inches (203.2 mm) beyond the facade of the structure.

“3107.2.4.2 Gallery Place Project Graphics located in the “Storefront Signage Areas” depicted on the Illustrations may project no more than 48 inches (1219.20 mm) beyond the building line or building restriction line, on the street frontage of a building.

“3107.18.2.5 Revolving Signs: Notwithstanding subsection 3107.7.11, revolving signs shall be permitted in the private alley located between the project and the property known as the MCI Center, Square 455, Lot 47, subject to the conditions of subsections 3107.7.11.1 through 3107.7.11.7.

“3107.18.3 Gallery Place Project Graphics Permit: No Gallery Place Project Graphics may be erected, hung, placed, posted, painted, displayed, or maintained without the owner of such Gallery Place Project Graphic first obtaining a Gallery Place Project Graphics Permit from the Department in accordance with subsection 3107.18.4. A Gallery Place Project Graphics Permit authorizes the location, size, and design of the graphic or visual.

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"3107.18.4 Gallery Place Project Graphics Permit Application: An application for a Gallery Place Project Graphics Permit shall be submitted by the owner to the Director of the Department, or his or her designee, on a form provided by the Department, and shall include the following:

"(1) Identification of: (a) the applicant; (b) the proposed location of the Gallery Place Project Graphics by the street address of the building or premises and the face direction of the wall or surface (e.g., northern-facing); (c) the proposed linear dimensions of the Gallery Place Project Graphics; and (d) such other information as the Director may require.

"(2) An affidavit signed by the applicant or his or her duly authorized representative, certifying that the applicant is in compliance with subchapter II of Chapter 28 of Title 47 of the District of Columbia Official Code.

"(3) A permit fee in the amount of one dollar (\$1.00) per square foot of the Gallery Place Project Graphics. The permit fee may be paid by check made payable to the order of the "D.C. Treasurer." The permit fee may be refunded to the applicant if the permit is not issued, in accordance with the provisions of Chapter 1 for the refund of unused permit fees.

"3107.18.5 Permit Applications Referrals: The Director of the Department, or his or her designee, shall refer all permit applications to the District Department of Transportation and the Office of Planning. The agencies shall have 60 (sixty) days from the referral date to submit a written report to the Director of the Department, except that the Director may allow for an extension of this period of up to thirty (30) days for good cause.

"3107.18.6 Effect of Adverse Report: No permit shall be granted if, within the time period provided in subsection 3107.18.5:

"(1) The Director of the Department of Transportation reports in writing that the location, size, or height above grade of the visual or graphic is objectionable with regard to vehicular traffic safety; or

"(2) The Director of the Office of Planning reports in writing that the proposed graphic or visual:

"(a) Does not comply with the specifications, drawings, limitations and requirements of the MOA; or

"(b) Would adversely impact the character and integrity of the Gallery Place Project.

"3107.18.7 Review, Approval, and Denial of Permit Applications: The Director of the Department, or his or her designee, shall review and approve or deny a Gallery Place Project Graphics Permit application within twenty (20) days of after the expiration of the time period provided in subsection 3107.18.5. Gallery Place Project Graphics Permits shall be issued in the name of the applicant and shall pertain solely to the Gallery Place Project Graphics location identified on the permit.

"3107.18.7.1 Denial of Application: If the Director denies a Gallery Place Project Graphics Permit, the denial shall be in writing to the applicant and shall state the statutory or

ENROLLED ORIGINAL

regulatory basis for the denial. The applicant shall have ten (10) business days from receipt of the denial to correct any defect in the application.

"3107.18.8 Applicability of Other Laws and Regulations Unaffected: Other than the exempted provisions of this chapter, the Gallery Place Project shall continue to be subject to all applicable rules and regulations, including, but not limited to, Chapter 24 of Title 10 (CHINATOWN DESIGN REVIEW PROCEDURES).

"3107.18.9 Enforcement of Regulations and Removal of Gallery Place Project Graphics: Any unauthorized Gallery Place Project Graphic (including Gallery Place Project Graphics without a permit) shall be taken down or removed within ten (10) days after receipt of written notification of violation from the Department. Following the expiration of this time period, the code official is authorized, through personnel of the Department or the Metropolitan Police Department, to remove or take down the unauthorized Gallery Place Project Graphic and to impose civil fines of no more than three dollars (\$3) per square foot of sign, per day that the unauthorized Gallery Place Project Graphic fails to be taken down or removed. Both the owner of the premises upon which the Gallery Place Project Graphic is displayed and the permit holder are responsible for taking down or removing the graphic or visual upon notification by the Department to do so, and both may be held responsible for any penalties or fines imposed for the violation. Additional enforcement measures may be taken pursuant to, and consistent with, the provisions of section 113, "Violations and Infractions."

"3107.18.10 Maintenance and repair: Whenever the code official finds that any Gallery Place Project Graphic is not maintained in good repair and has not deteriorated more than 50 percent of its replacement value, the code official shall notify the owner thereof and order him to repair the Gallery Place Project Graphic within a specified time, but not less than 10 calendar days. If the code official finds that the Gallery Place Project Graphic has deteriorated more than 50 percent of its replacement value, or is not repaired within the time specified in the repair notice, the code official shall notify the owner of the Gallery Place Project Graphic and the owner of the real property on which said Gallery Place Project Graphic is located to remove the Gallery Place Project Graphic from the property within a specified time. Failure to comply shall subject said owners, upon conviction or adjudication, to the fines provided for in section 4 of AN ACT to regulate the erection, hanging, placing, painting, display, and maintenance of outdoor signs and other forms of exterior advertising within the District of Columbia, approved March 31, 1931 (46 Stat. 1486; D.C. Official Code § 1-303.23), or to civil fines, penalties, and fees pursuant to Titles I through III of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.01 *et seq.*). The code official may extend the time periods stated in this subsection upon the owner's written showing of good cause.

"3107.18.11 Rulemaking Authority: Notwithstanding section 10 of the Construction Codes Approval and Amendments Act of 1986, effective March 21, 1987 (D.C. Law 6-216; D.C. Official Code § 6-1409), the Director may amend the provisions of this subsection and the

ENROLLED ORIGINAL

specifications, drawings, limitations, and requirements of the Illustrations by rulemaking pursuant to section 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505), without submission of the proposed rules to the Council for its prior review and approval.”.

Sec. 3. Section 10 of the Construction Codes Approval and Amendments Act of 1986, effective March 21, 1987 (D.C. Law 6-216; D.C. Official Code § 6-1409), is amended by adding a new subsection (a-1) to read as follows:

Note,
§ 6-1409

“(a-1) Notwithstanding the provisions of subsection (a) of this subsection, the Mayor may amend the provisions of subsection 3107.18 of Title 12A of the District of Columbia Municipal Regulations (31A DCMR § 3107.18), including the specifications, drawings, limitations, and requirements of the Illustrations, as defined in subsection 3107.18.11 of Title 12A of the District of Columbia Municipal Regulations (31A DCMR § 3107.18.11), by rulemaking pursuant to section 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505), without submission of the proposed rules to the Council for its prior review and approval.”.

Sec. 4. Fiscal impact statement.

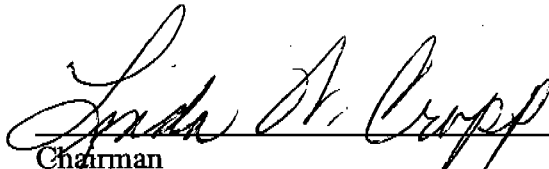
The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

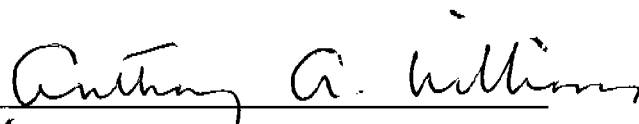
Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED
August 2, 2004

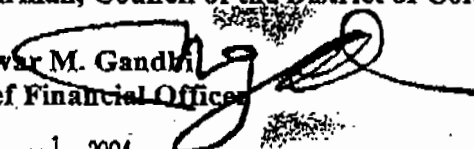
Government of the District of Columbia
Office of the Chief Financial Officer



Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: The Honorable Linda W. Cropp
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi
Chief Financial Officer 

DATE: JUL -1 2004

SUBJECT: Fiscal Impact Statement: "Gallery Place Project Graphics Amendment Act of 2004"

REFERENCE: Bill 15-313 - An Amendment in the Nature of a Substitute

Conclusion

The proposed legislation has no impact on the FY 2005 through FY 2008 budget and financial plan as approved by the Mayor and the Council of the District of Columbia. No additional staff or resources will be required to implement the provisions of the proposed agreement.

Background

The proposed legislation approves a Memorandum of Agreement (MOA) between the District of Columbia and the owners of Gallery Place, an 11-story, 1+ million square foot, mixed-use development on the corner of 7th and H streets, N.W. The agreement will regulate the use of outdoor graphics and visuals including, but not limited to, banners, digital screens, digital video monitors, theatre marquees, fixed and animated signs, image projectors, interactive kiosks, and images on the building façade itself.

Financial Plan Impact

The proposed legislation will have no impact on the budget and financial plan.

HISTORIC CONTEXT

View of 7th Street between G & H Streets
(current Gallery Place Location)

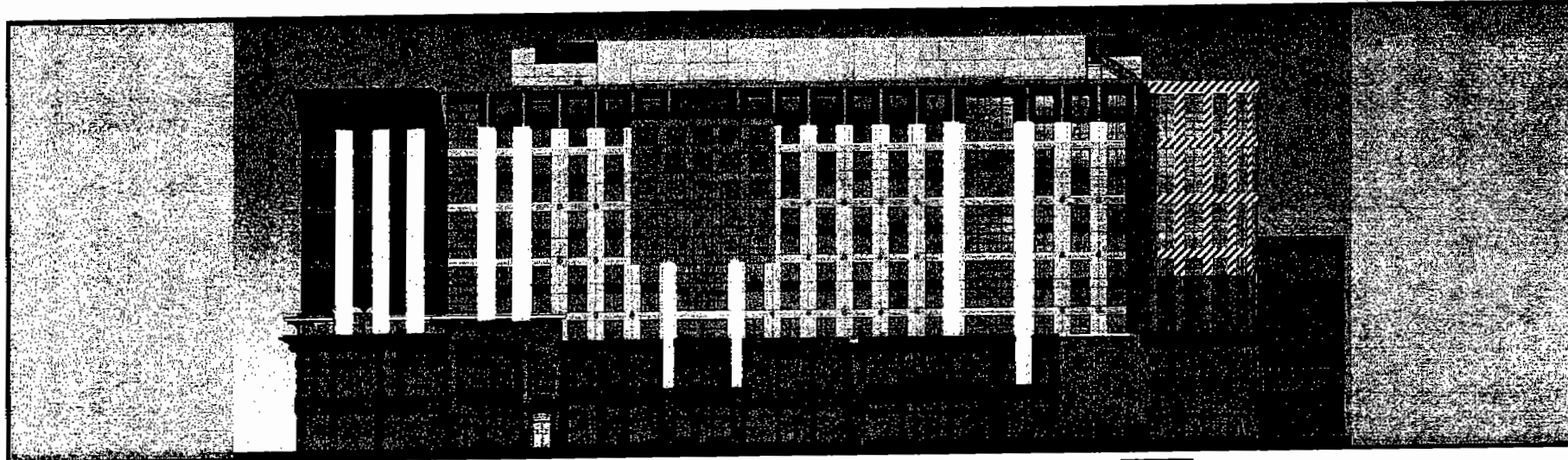


SIGNAGE REVIEW
June 2004

GALLERY PLACE

ILLUSTRATION 1

Gallery Place 7th Street Elevation

**Heroic Graphic Area**

Area for most innovative and largest signs.

1. This area allows unlimited square footage for signage.

This area is the only area that allows for digital video monitors, digital screens and theater marquees. With the exception of the heroic graphic areas in Illustration 1 and Illustration 2, signs shall not completely obscure and shall be compatible with the buildings structural frame, spandrels, and architectural elements (see Illustration 5).

Additional Signage Area

Allows for larger scale signage than in storefront areas, but placement corresponds to the architecture of the facade.

1. Additional Signage Areas that overlap into the Storefront Signage Area shall not obscure the building's structural frame, spandrels and architectural elements (see illus. 5).

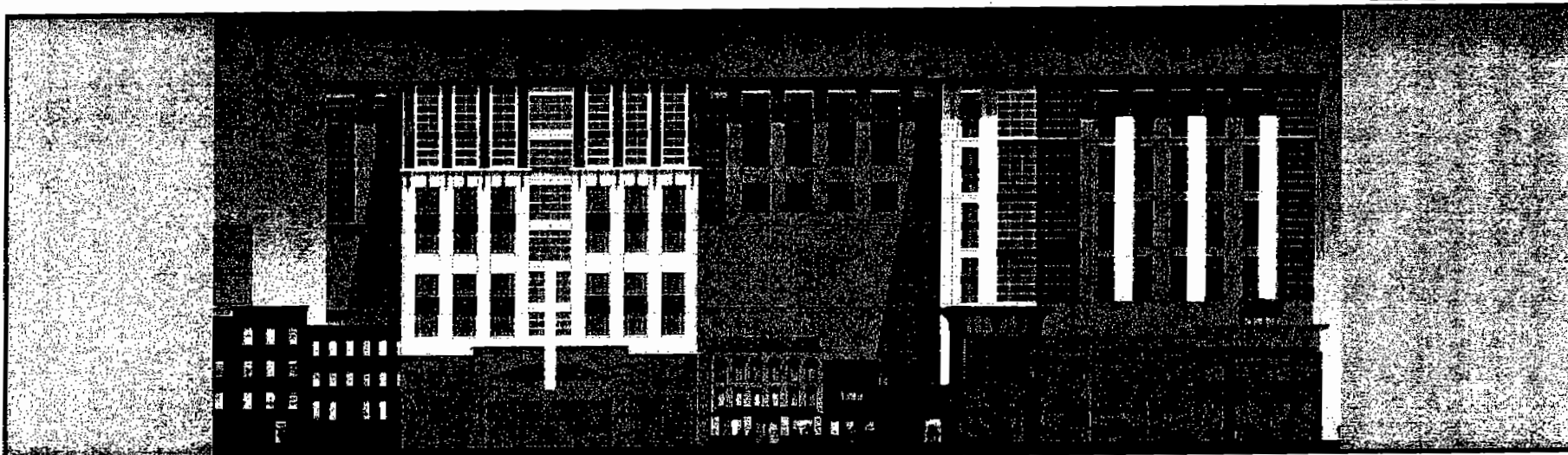
Storefront Signage Area

Innovative signage consistent with the scale and character of storefront architecture.

1. This area allows unlimited square footage for signage, but no more than 20% of windows can be covered with signs; parts of signs that cover windows must be 50% void.
2. Individual elements of storefront signs are limited in thickness to 8"; however, original art and figural elements may project up to 48".
3. Signs must not completely obscure the building's structural frame, spandrels and architectural elements (see illus. 5) and be consistent with objectives shown in illustration 6 in terms of placement.

ILLUSTRATION 2

Gallery Place H Street Elevation

**Heroic Graphic Area**

Area for most innovative and largest signs.

1. This area allows unlimited square footage for signage.

This area is the only area that allows for digital video monitors, digital screens and theater marquees. With the exception of the heroic graphic areas in Illustration 1 and Illustration 2, signs shall not completely obscure and shall be compatible with the building's structural frame, spandrels, and architectural elements (see Illustration 5)

Additional Signage Area

Allows for larger scale signage than in storefront areas, but placement corresponds to the architecture of the facade.

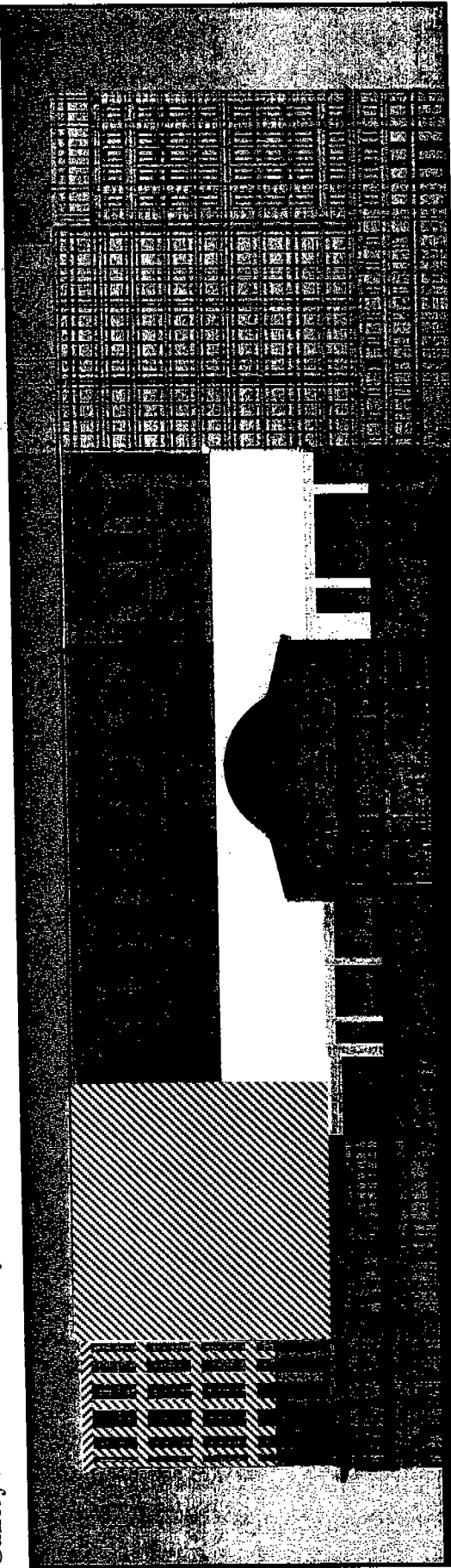
1. Additional Signage Areas that overlap into the Storefront Signage Area shall not obscure the building's structural frame, spandrels and architectural elements (see illus. 5).

Storefront Signage Area

Innovative signage consistent with the scale and character of storefront architecture.

1. This area allows unlimited square footage for signage, but no more than 20% of windows can be covered with signs; parts of signs that cover windows must be 50% void.
2. Individual elements of storefront signs are limited in thickness to 8"; however, original art and figural elements may project up to 48".
3. Signs must not completely obscure the building's structural frame, spandrels and architectural elements (see illus. 5) and be consistent with objectives shown in illustration 6 in terms of placement.

Gallery Place G Street Alley Elevation



Area for most innovative and largest signs.

- ### Additional Signage Area

Allows for larger scale signage than in storefront areas, but placement corresponds to the architecture of the facade.

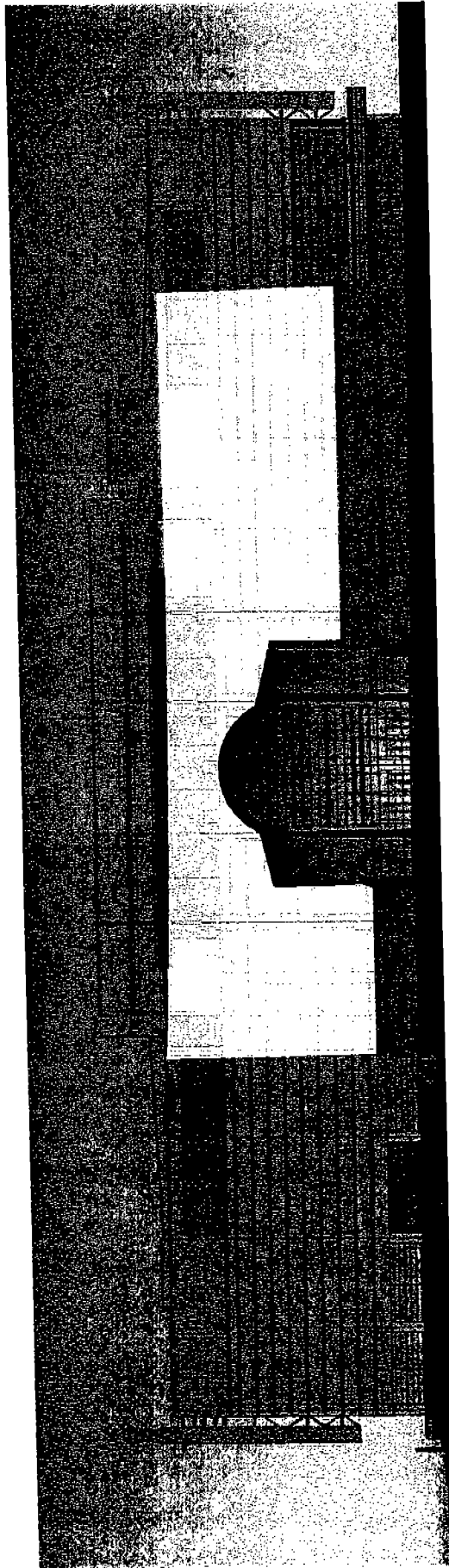
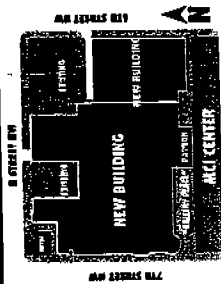
1. Additional Signage Areas that overlap into the Storefront Signage Area shall not obscure the building's structural frame, spandrels, and architectural elements (see Illustration 5).

Innovative signage consistent with the scale and character of storefront architecture.

1. This area allows unlimited square footage for signage, but no more than 20% of windows can be covered with signs; parts of signs that cover windows must be 50% void.
2. Individual elements of storefront signs are limited in thickness to 8", however, original art and figural elements may project up to 48".
3. Signs must not completely obscure the building's structural frame, spandrels and architectural elements (see illus. 5) and be consistent with objectives shown in illustration 6 in terms of placement.

ILLUSTRATION 4

MCI Center - G Street Alley Elevation



Heroic Graphic Area

Area for most innovative and largest signs.

1. This area allows unlimited square footage for signage.
This area is the only area that allows for digital video monitors, digital screens and theater marquees. With the exception of the heroic graphic areas in Illustration 1 and Illustration 2, signs shall not completely obscure and shall be compatible with the buildings structural frame, spandrels, and architectural elements (see Illustration 5)

Additional Signage Area

Allows for larger scale signage than in storefront areas, but placement corresponds to the architecture of the facade.

1. Additional Signage Areas that overlap into the Storefront Signage Area shall not obscure the building's structural frame, spandrels, and architectural elements (see Illustration 5).

Storefront Signage Area

Innovative signage consistent with the scale and character of storefront architecture.

1. This area allows unlimited square footage for signage, but no more than 20% of windows can be covered with signs; parts of signs that cover windows must be 50% void.
2. Individual elements of storefront signs are limited in thickness to 8"; however, original art and figural elements may project up to 48".
3. Signs must not completely obscure the building's structural frame, spandrels and architectural elements (see illus. 5) and be consistent with objectives shown in illustration 6 in terms of placement.

SIGNAGE REVIEW
June 2003

GALLERY PLACE

ILLUSTRATION 5

Elements of Typical Storefront Facade

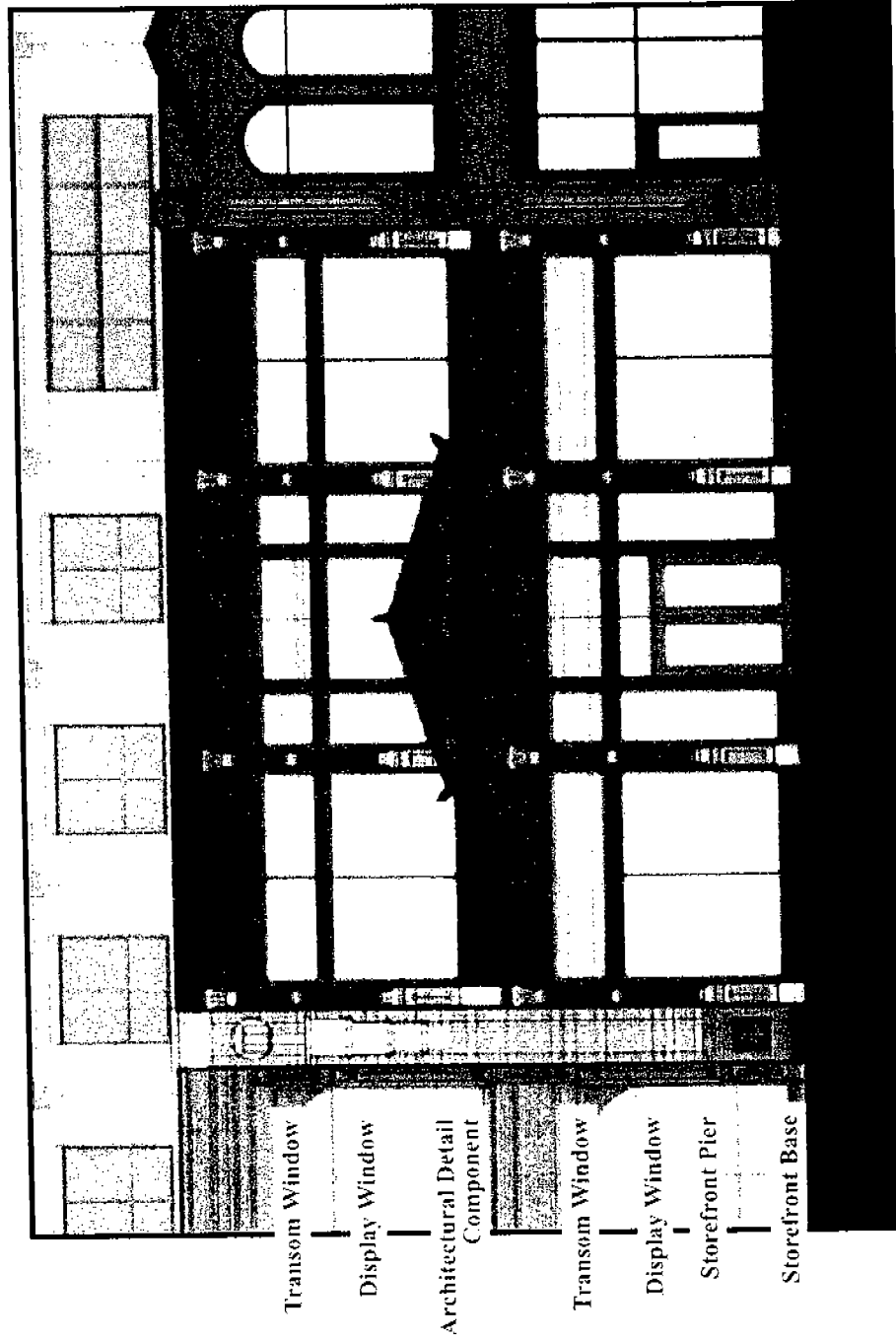
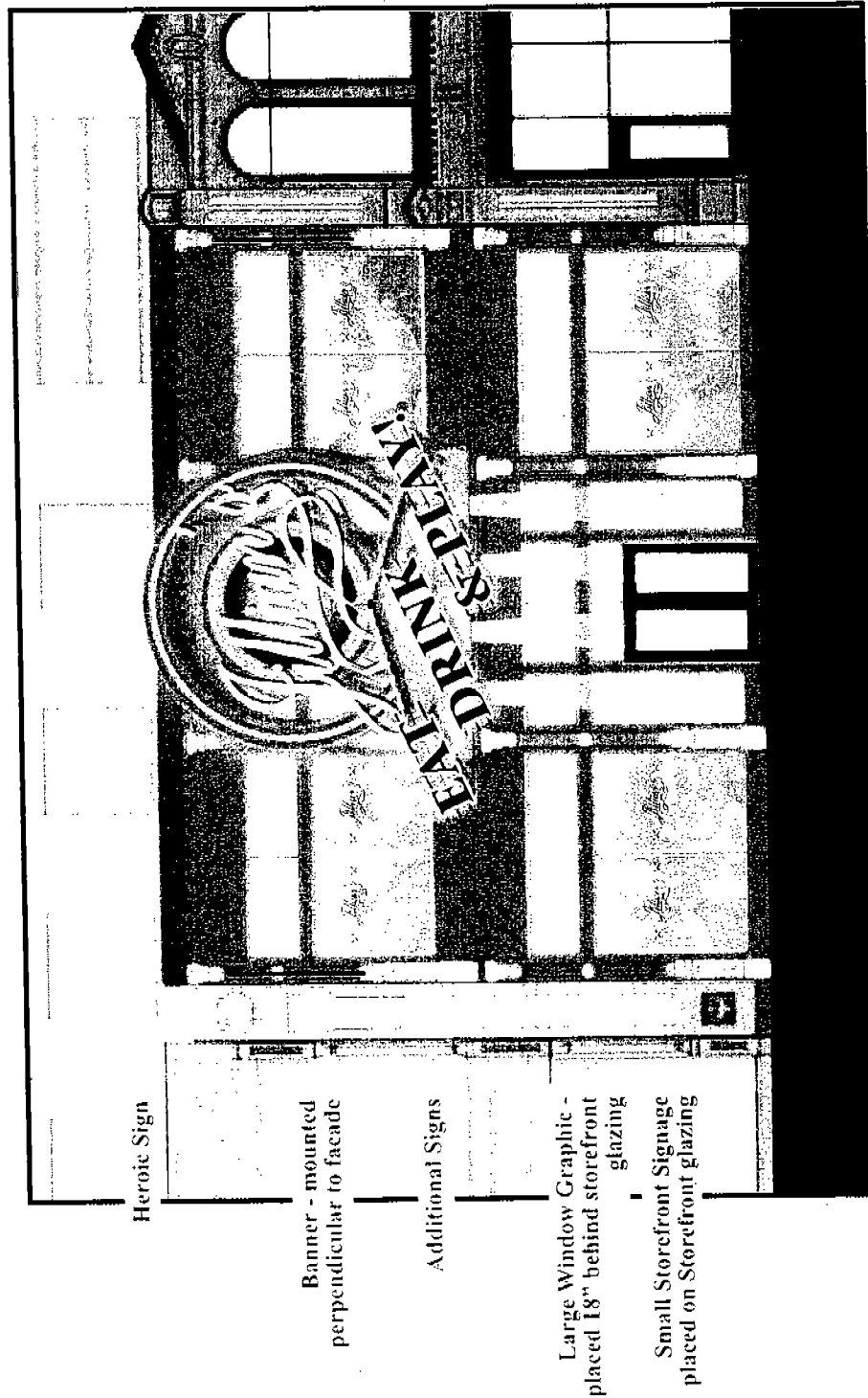


ILLUSTRATION 6

Typical Storefront Facade
Proposed Signage Areas

**GALLERY PLACE**

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-509

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 2, 2004

To amend, on an emergency basis, the District of Columbia Noise Control Act of 1977 to exempt the Georgetown underground utility infrastructure upgrade project, known as the Georgetown Project, from the maximum noise level restrictions; to exempt the operators of emergency generator equipment from maximum noise level restrictions as necessary; to clarify the definition of noise disturbance to provide that the measurement of the noise decibel level is not required evidence of violations that occur outside the Central Employment Area, outside an area zoned manufacturing or industrial, or at night; to limit the exemption for music from religious services to exclude amplified sounds; to prohibit noise disturbances from motor vehicle stereo systems; to limit the duration of noise from motor vehicle alarm systems; to allow measurement of noise from 25 feet from the construction or demolition noise when the construction work is performed inside an occupied multi-unit apartment building, hospital, nursing home, community-based residential facility, or other similar facility which serves as a temporary or permanent dwelling for its residents; to expand the exemption for District-owned vehicles to allow residential refuse collection to begin at 6 a.m. during the months of June, July, and August and to clarify the meaning of the operation of a trash collection vehicle; to raise the maximum fine for the violation of any provision of the act from \$300 to \$1000; to amend Title 12A of the District of Columbia Municipal Regulations to exempt the Georgetown Project from the limitations on after-hours work; to amend Article 250 of the Housing Regulations of the District of Columbia to require property owners and landlords to provide tenants with written notice and to comply with the District of Columbia Noise Control Act of 1977 when construction or maintenance work will occur in an occupied unit within an apartment building for over 48 hours and the noise from the work will exceed 60 decibels; and to amend the District of Columbia Noise Control Act of 1977 Amendment Act of 1986 to make technical amendments to correct amendatory numbering designations.

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BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Georgetown Project and Noise Control Emergency Amendment Act of 2004".

Sec. 2. The District of Columbia Noise Control Act of 1977, effective March 16, 1978 (D.C. Law 2-53; 20 DCMR Chapters 27 and 28), is amended as follows:

(a) Section 3 (20 DCMR § 2799) is amended as follows:

DCMR

(1) New subsections (f-2) and (f-3) are added to read as follows:

"(f-2) Emergency Generator Equipment- Generators that supply back-up power to buildings such as hospitals, hotels, and office buildings.

"(f-3)(1) Georgetown Project - The project being undertaken by the District government, the Potomac Electric Power Company, Washington Gas Light Company, the District of Columbia Water and Sewer Authority, and Verizon of Washington, D.C. to rehabilitate, upgrade, and improve utility infrastructure, roadways, sidewalks, and landscaping adjacent to the Georgetown Business District, which is geographically defined as the commercial properties along M Street, N.W., between 28th Street, N.W., and Key Bridge and along Wisconsin Avenue, N.W., between K Street, N.W., and S Street, N.W., which project commenced in September 2001 and is scheduled to be completed no later than December 31, 2006.

"(2) This subsection shall expire 4 years after the effective date of the Georgetown Project and Noise Control Amendment Act of 2004, passed on 2nd reading on July 13, 2004 (Enrolled version of Bill 15-280)."

(2) Subsection (n) is amended to read as follows:

"(n) Noise disturbance - Any sound which is loud and raucous or loud and unseemly and unreasonably disturbs the peace and quiet of a reasonable person of ordinary sensibilities in the vicinity thereof, unless the making and continuing of the noise is necessary for the protection or preservation of the health, safety, life or limb of some person. In making a determination of a noise disturbance, the Mayor shall consider the location, the time of day when the noise is occurring or will occur, and the duration of the noise. In addition, the Mayor may consider the magnitude of the noise relative to the maximum sound levels permitted under this act, the possible obstruction or interference with vehicular or pedestrian traffic, the number of people that are or would be affected, and such other factors as are reasonably related to the impact of the noise on the health, safety, welfare, peace, and quiet of the community. If the noise is outside the Central Employment Area or an area zoned manufacturing or industrial, or if the noise occurs at night, the Mayor shall not be required to measure the decibel level of the noise in order to find a noise disturbance. A sound shall not be considered a noise disturbance if made during noncommercial public speaking during the daytime."

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(b) Section 5 (20 DCMR § 2701 *et seq.*) is amended as follows:

(1) Subsection (c) is amended as follows:

(A) Paragraph (11) is amended by striking the period and inserting the phrase “; provided, that this exemption shall not apply to music which is amplified through electronic sound systems.” in its place.

(B) A new paragraph (13) is added to read as follows:

“(13) Emergency Generator Equipment – Noise resulting from the operation of emergency generator equipment, when its use is required to protect the health and safety of persons, shall be exempt. Noise resulting from necessary testing of emergency generator equipment shall be exempt on weekdays (excluding holidays) between the hours of 4:00 p.m. and 6:30 p.m.”.

(2) Subsection (d) is amended as follows:

(A) Paragraph (1)(A) is amended by striking the phrase “sound amplifier,” and inserting the phrase “sound amplifier, radio, tape recorder, television, compact disc player, stereo system, including those installed in motor vehicles,” in its place.

(B) Paragraph (2)(C) is amended striking the period and inserting the phrase “; provided, that when construction work is performed inside an occupied multi-unit apartment building, hospital, nursing home, community-based residential facility, or other similar facility which serves as a temporary or permanent dwelling for its residents, measurement of noise from the construction or demolition shall be made twenty-five (25) feet from the source of the noise. This provision shall be subject to the exemption for emergency work.” in its place.

(C) Paragraph (5) is amended by striking the phrase “radio,” and inserting the phrase “radio, tape recorder, television, compact disc player, stereo system, including those installed in motor vehicles,” in its place.

(D) A new paragraph (7) is added to read as follows:

“(7) It shall be unlawful for any person to install, operate, or use any vehicle theft alarm system that emits or causes the emission of an audible sound that is not, or does not become, automatically and completely silenced within five (5) minutes. The time period shall be calculated based upon the emission of the first audible sound and shall end five (5) minutes thereafter, notwithstanding any variation or stoppage in the emissions of audible sound.”.

(3) Subsection (e)(4) is amended to read as follows:

“(4) Nighttime Trash Collection. (A) No person shall operate or permit the operation of any refuse collection vehicle in, or within three hundred (300) feet of, any residential, special purpose, or waterfront zone, at nighttime on any day of the week. The terms “operate” and “operation” in this section shall mean the stopping of the vehicle and the collection of trash by the refuse vehicle. This prohibition shall not apply to vehicles owned by the District government employed for emptying litter receptacles. Violation of this paragraph on more than one occasion within a 6-month period may be deemed a nuisance under subsection

ENROLLED ORIGINAL

709.7 of Title 21 of the District of Columbia Municipal Regulations (21 DCMR § 709.7) and shall constitute grounds for suspension or revocation of the endorsement issued for solid waste collectors or solid waste vehicles pursuant to D.C. Official Code § 47-2851.03a(d).

“(B) Notwithstanding the prohibitions in subparagraph (A) of this paragraph, the collection of residential refuse by District government-owned vehicles may commence at 6 a.m. during the months of June, July, and August or when the daily high temperature is forecast to be above 90 degrees Fahrenheit.”.

(4) A new subsection (f) is added to read as follows:

“(f)(1) Notwithstanding any other provision of this act, noise emanating from construction equipment and any activities related to the Georgetown Project shall be exempt at all times from any noise limitations contained in this act, including sections 5(a), (b), (d)(2), and (e)(2), and shall not be subject to enforcement under any provision of this act.

“(2) This subsection shall expire 4 years after the effective date of the Georgetown Project and Noise Control Amendment Act of 2004, passed on 2nd reading on July 13, 2004 (Enrolled version of Bill 15-280).”

(c) Section 13(c) is amended as follows:

(1) Strike the phrase “three hundred dollars (\$300)” and insert the phrase “one thousand dollars (\$1000)” in its place.

(2) Strike the phrase “noise disturbance,” and insert the phrase “noise disturbance, or a noise-producing activity, during days or hours when prohibited, or beyond its authorized duration,” in its place.

Sec. 3. Section 107 of Title 12A of the District of Columbia Municipal Regulations (12A DCMR § 107), is amended by adding a new subsection 107.2.8.2 to read as follows:

DCMR

“107.2.8.2 Georgetown Project. The limitations on the issuance of after-hours permits set forth in § 107.2.8.1 shall not apply to after-hours work related to the Georgetown Project. For the purposes of this section, the “Georgetown Project” means the project being undertaken by the District government, the Potomac Electric Power Company, Washington Gas Light Company, the District of Columbia Water and Sewer Authority, and Verizon of Washington, D.C. to rehabilitate, upgrade, and improve utility infrastructure, roadways, sidewalks, and landscaping adjacent to the Georgetown Business District, which is geographically defined as the commercial properties along M Street, N.W., between 28th Street, N.W., and Key Bridge and along Wisconsin Avenue, N.W., from K Street, N.W., to S Street, N.W., which project commenced in September 2001 and is scheduled to be completed no later than December 31, 2006. This subsection shall expire 4 years after the effective date of the Georgetown Project and Noise Control Amendment Act of 2004, passed on 2nd reading on July 13, 2004 (Enrolled version of Bill 15-280).”

ENROLLED ORIGINAL

Sec. 4. Article 250 of the Housing Regulations of the District of Columbia, issued August 11, 1955 (C.O. 55-1503; 14 DCMR Chapter 7), is amended by adding a new section 2515 to read as follows:

DCMR

"2515 CONSTRUCTION WORK IN OCCUPIED BUILDINGS OR DWELLINGS

"2515.1 Where construction work is conducted in an occupied rental unit within an apartment building, the owner shall comply with the District of Columbia Noise Control Act of 1977.

"2515.2 Except as provided in subsection 2515.3, in any case where noise from construction, repair, or maintenance work will continue over a period of more than forty-eight (48) hours from the time the work is first initiated until the conclusion of the job (including periods of time when no work is being done) and the noise from the work will exceed sixty (60) decibels, the landlord shall provide the tenant with not less than five (5) days written notice of the construction, repair, or maintenance work, including the dates and times that the work will occur and a description of the work to be done.

"2515.3 Subsection 2515.2 shall not apply to emergency work which is necessary to restore property to a safe condition following a public calamity or act of God, or work required to protect the health and safety of persons; provided, that the work shall be undertaken promptly and it is not feasible to provide advance notice."

Sec. 5. Section 4 of the District of Columbia Noise Control Act of 1977 Amendment Act of 1986, effective February 24, 1987 (D.C. Law 6-180; 27 DCMR §§ 2800.4 and 2880.5), is amended as follows:

DCMR

(a) The statutory citation is amended by striking the phrase "Section 5(e)(1)" and inserting the phrase "Section 5" in its place.

(b) Subsection (a) is amended by striking the phrase "Section 3100.2" and inserting the phrase "Subsection (d)(1)" in its place.

(c) Subsection (b) is amended as follows:

(1) Strike the phrase "By adding 2 new subsections 3100.4 and 3100.5" and insert the phrase "New paragraphs (4) and (5) are added" in its place.

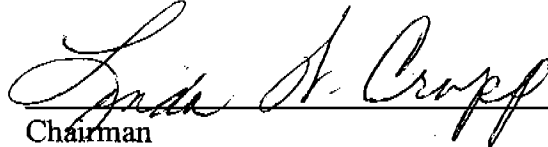
(2) Strike the phrase "3100.4 Sounds" and insert the phrase "(4) Sounds" in its place.

(3) Strike the phrase "3100.5 It" and insert the phrase "(5) It" in its place.

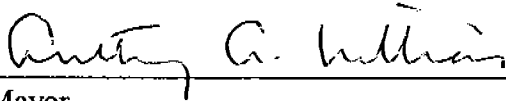
Sec. 6. The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602 (c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat.813; D.C. Official Code § 1-206.02 (c)(3)).

ENROLLED ORIGINAL

Sec. 7. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
August 2, 2004


**Government of the District of Columbia
Office of the Chief Financial Officer**

Natwar M. Gandhi
Chief Financial Officer



MEMORANDUM

TO: The Honorable Linda W. Cropp
Chairman, Council of the District of Columbia

FROM: Natwar Gandhi 
Chief Financial Officer

DATE: MAR -2 2004

SUBJECT: Fiscal Impact Statement: "Georgetown Project and Noise Control Amendment Act of 2003"

REFERENCE: Bill 15-280

Conclusion

Funds are sufficient in the proposed FY 2004 budget and the proposed FY 2004 through FY 2007 financial plan to implement the "Georgetown Project and Noise Control Amendment Act of 2003." The proposed legislation has no fiscal impact.

Background

The "Georgetown Project and Noise Control Amendment Act of 2003" amends the District of Columbia Noise Control Act of 1977 and the District of Columbia Construction Codes to exempt the Georgetown underground utility infrastructure upgrade project (the "Georgetown Project") from maximum noise level restrictions and limitations on after-hours work and to provide a number of other noise-related provisions, including clarifying the definition of a noise disturbance, limiting the exemption for music from religious services to exclude amplified sounds, prohibiting noise disturbances from motor vehicle stereo systems and limiting the duration of noise from motor vehicle alarm systems. The proposed legislation also prohibits nighttime refuse collection within 300 feet of a hotel or a residence in a CM zone while allowing residential collection to begin at 6 a.m. during June, July and August. In addition, the proposed legislation increases the fee for violation of any provision of the Act from \$300 to \$1,000.

The Honorable Linda W. Cropp

FIS: "Georgetown Project and Noise Control Amendment Act of 2003"

Financial Plan Impact

The provisions in the proposed legislation provide a variety of exemptions, limitations, and clarifications that will not affect District staff or resources. It is not possible to estimate the impact of the fee increase.

AN ACT

D.C. ACT 15-510

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 2, 2004Codification
District of
Columbia
Official Code

2001 Edition

2004 Fall
Supp.West Group
Publisher

To amend, on an emergency basis, due to Congressional review, the Advisory Commission on Sentencing Establishment Act of 1998 to rename the commission the District of Columbia Sentencing Commission and to require the commission to assist the Superior Court of the District of Columbia in implementing, as a pilot program, the comprehensive structured sentencing system recommended by the commission; and to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to make conforming amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Advisory Commission on Sentencing Structured Sentencing System Pilot Program Congressional Review Emergency Amendment Act of 2004".

Sec. 2. The Advisory Commission on Sentencing Establishment Act of 1998, effective October 16, 1998 (D.C. Law 12-167; D.C. Official Code § 3-101 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 3-101) is amended as follows:

Note,
§ 3-101

(1) The section heading is amended by striking the phrase "Advisory Commission on Sentencing" and inserting the phrase "District of Columbia Sentencing Commission" in its place.

(2) Subsection (a) is amended by striking the phrase "Advisory Commission on Sentencing" and inserting the phrase "District of Columbia Sentencing Commission" in its place.

(b) Section 6 (D.C. Official Code § 3-105) is amended by adding a new subsection (e) to read as follows:

Note,
§ 3-105

"(e) The Commission shall assist the Superior Court of the District of Columbia in implementing, as a pilot program, the comprehensive structured sentencing system that was recommended by the Commission pursuant to subsection (d) of this section. No later than December 1, 2006, the Commission shall submit to the Council its final recommendation on the comprehensive structured sentencing system."

Sec. 3. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), is amended as follows:

(a) Section 406(b)(19) (D.C. Official Code § 1-604.06(b)(19)) is amended by striking the phrase "Advisory Commission Sentencing" in both places it appears and inserting the phrase "District of Columbia Sentencing Commission" in its place.

Note,
§ 1-604.06

(b) Section 903(a)(6C) (D.C. Official Code § 1-609.03(a)(6C)) is amended by striking

the phrase "Advisory Commission on Sentencing" and inserting the phrase "District of Columbia Sentencing Commission" in its place.

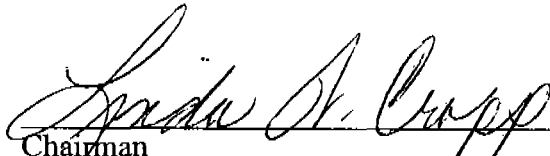
Note,
§ 1-609.03

Sec. 4. Fiscal impact statement.

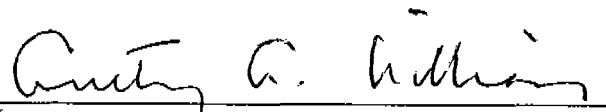
The Council adopts the fiscal impact statement in the committee report of the Advisory Commission on Sentencing Structured Sentencing System Pilot Program Amendment Act of 2004, signed by the Mayor on June 23, 2004 (D.C. Act 15-547), as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
August 2, 2004

ENROLLED ORIGINAL

AN ACT
D.C. ACT 15-511IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
AUGUST 2, 2004*Codification
District of
Columbia
Official Code*

2001 Edition

2004 Fall
Supp.West Group
Publisher

To establish, on an emergency basis, a nonlapsing proprietary fund which shall be segregated from the General Fund of the District of Columbia and shall be used solely to defray costs incurred by the Department of Housing and Community Development in administering the Low-Income Housing Tax Credit program which provides low-income housing tax credits to developers.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Low-Income Housing Tax Credit Fund Emergency Act of 2004".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Administrative costs" means costs of the Department to administer and monitor the distribution of low-income housing tax credits and to assess and collect fees under this act, including personnel, operations, maintenance, and monitoring of the Low Income Housing Tax Credit program, as well as any other obligations, whether incurred before or after the effective date of this act.

(2) "Department" means the Department of Housing and Community Development.

(3) "Developer" means a person or entity that proposes to construct affordable housing using tax credits provided under the Low-Income Tax Credit Program.

(4) "Fund" means the Low-Income Housing Tax Credit Fund.

(5) "Low-Income Tax Credit Program" means the program established under section 42 of the Internal Revenue Code to encourage new construction and rehabilitation of existing rental housing for low-income households and to increase the amount of affordable rental housing for households with income at or below specified income levels.

(6) "Monitoring" means the regular evaluation and monitoring of units financed by the Low-Income Housing Tax Credit Program.

(7) "User Fees" means any fees charged to the applicants and users of the Low-Income Housing Tax Credit Program including application, reservation, allocation, and monitoring fees.

Sec. 3. Low-Income Housing Tax Credit Fund.

(a) There is hereby established a segregated nonlapsing proprietary fund to be known as the Low-Income Housing Tax Credit Fund ("Fund"). All user fees collected under this act, and all interest earned on those fees, shall be deposited into the Fund without regard to any fiscal

ENROLLED ORIGINAL

year limitation established by an act of Congress.

(b) All revenues deposited into the Fund shall not revert to the General Fund of the District of Columbia at the end of any fiscal year or any other time, but shall be continually available to the Department for the purposes set forth in this act, subject to authorization by Congress in an appropriations act.

(c) All revenue deposited into the Fund shall be expended by the Department for the administrative costs for administering and monitoring the Low-Income Housing Tax Credit Program. The Fund shall not be used for any other purpose.

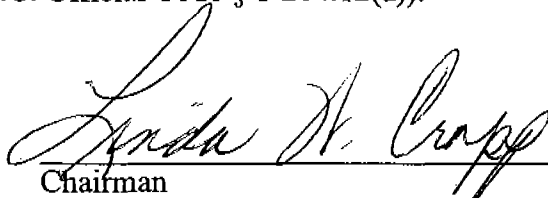
(d) The Mayor shall submit to the Council, as a part of the annual budget, a requested appropriation for expenditures from the Fund. Any revenue received but not expended in a fiscal year shall be retained by the Fund.

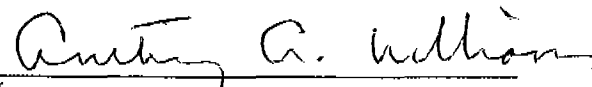
(e) All income and expenses of the Fund shall be audited annually by the Mayor. The audit report shall be provided to the Council. The expenses for each audit shall be paid by the Fund.

Sec. 4. Fiscal impact statement.

The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED
August 2, 2004

COUNCIL OF THE DISTRICT OF COLUMBIA
OFFICE OF THE BUDGET DIRECTOR **FISCAL IMPACT STATEMENT**

Bill Number:	Type: Emergency (<input checked="" type="checkbox"/>) Temporary (<input type="checkbox"/>) Permanent (<input type="checkbox"/>)	Date Reported: July 2004
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Subject/Short Title: Low-Income Housing Tax Credit Non-Reverting/NonLapsing Proprietary Fund Emergency Act of 2004

Part I. Summary of the Fiscal Estimates of the Bill

	YES	NO
1. It will impact spending. (If "Yes," complete Section 1 in the Fiscal Estimate Worksheet).	()	(X)
a) It will affect local expenditures.	()	()
b) It will affect federal expenditures.	()	()
c) It will affect private/other expenditures.	()	()
d) It will affect intra-District expenditures.	()	()
2. It will impact revenue. (If "Yes," complete Section 2 in the Fiscal Estimate Worksheet).	(X)	()
a) It will impact local revenue.	()	()
b) It will impact federal revenue.	()	()
c) It will impact private/other revenue.	(X)	()
d) It will impact intra-District revenue.	()	()
3. The bill will have NO or minimal fiscal impact. (If "Yes," explain below).	()	(X)
The emergency would establish a fund that will be used solely to defray costs incurred by DHCD in administering the Low-Income Housing Tax Credit. It will have a positive fiscal impact.		

Part II. Other Impact of the Bill

If you check "Yes" for each question, please explain on separate sheet, if necessary.

	YES	NO
1. It will affect an agency and/or agencies in the District. This emergency allows DHCD to fund an unfunded IRS mandate by charging a fee to developers or recipients of low-income housing tax credits, through application, reservation, allocation, and monitoring fees.	(X)	()
2. Are there performance measures/output for this bill?	()	(X)
3. Will it have results/outcome, i.e., what would happen if this bill is not enacted? DHCD will be unable to pay for the the IRS monitoring mandate and is in jepordy of losing its LIHTC program	(X)	()
4. Are funds appropriated for this bill in the Budget and Financial Plan for the current year? No additional funds need to be appropriated for the current fiscal year.	(X)	()

Sources of information:	Councilmember: Harold Brazil
	Staff Person & Tel: David L. Goldblatt (724-8078)
	Council Budget Director's Signature: <i>Harold Brazil</i>

7/12/04

ENROLLED ORIGINAL

AN ACT
D.C. ACT 15-512

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
AUGUST 2, 2004

*Codification
District of
Columbia
Official Code*

2001 Edition

2004 Fall
Supp.

West Group
Publisher

To amend, on an emergency basis, the District of Columbia Unemployment Compensation Act to reduce pension offsets.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Unemployment Compensation Pension Offset Reduction Emergency Amendment Act of 2004".

Sec. 2. Section 7(c)(2) of the District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 949; D.C. Official Code § 51-107(c)(2)), is amended by striking the sentence "For any week beginning after March 31, 1980, benefits payable for any week to an individual who has applied for or is receiving a retirement pension or annuity under a public or private retirement plan, including any such sum provided under title II of the Social Security Act, shall, under regulations prescribed by the Board, be reduced (but not below zero) by the prorated weekly amount of such retirement pension or annuity which is reasonably attributable to such week." and inserting the sentence "For benefit years beginning on or after the applicable date of the Unemployment Compensation Pension Offset Reduction Emergency Amendment Act of 2004, passed on 1st reading on July 13, 2004, benefits payable to an individual who applied for or is receiving a retirement pension or annuity under a public or private retirement plan or system provided or contributed to by any base period employer shall, under duly prescribed regulations, be reduced (but not below zero) by the prorated weekly amount of such retirement pension or annuity which is reasonably attributable to such week, provided that the claimant has not made contributions to the pension or annuity." in its place.

Note,
§ 51-107

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

ENROLLED ORIGINAL

Sec. 4. Applicability.

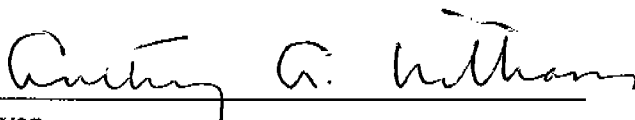
This act shall apply as of July 1, 2004.

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-202.12(a)).



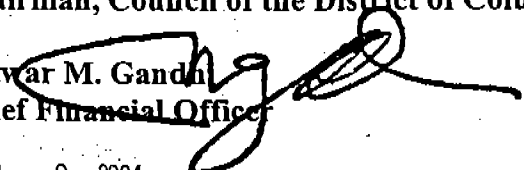
Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
August 2, 2004

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CHIEF FINANCIAL OFFICERNatwar M. Gandhi
Chief Financial Officer**MEMORANDUM**

TO: The Honorable Linda W. Cropp
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi
Chief Financial Officer 

DATE: JUL -9 2004

SUBJECT: Fiscal Impact Statement: "Unemployment Compensation Pension Offset Reduction Amendment Act of 2004"

REFERENCE: Bill 15-526 As Introduced

Conclusion

Funds are sufficient in the FY 2005 through FY 2008 budget and financial plan, as agreed to by the Mayor and the Council of the District of Columbia, to implement the proposed legislation. The proposed legislation is funded through the District's Unemployment Trust Fund.

Background

Currently, an individual's District unemployment compensation weekly benefit amount is reduced by payments received from a pension or annuity plan of a prior employer. The District is one of only three states that offsets all pensions. The majority of states limit offsets to pensions financed by a base period employer. The proposed legislation would make District law consistent with similar laws in other states. Under the proposed bill, the unemployment benefit would not be reduced by a pension amount if the individual contributed during employment to the pension or retirement plan, e.g., social security or Federal retirement.

Financial Impact

Funds are sufficient in the FY 2005 through FY 2008 budget and financial plan, as agreed to by the Mayor and the Council of the District of Columbia, to implement the proposed legislation. The District Unemployment Trust Fund maintains a fund balance of over \$300 million. The

The Honorable Linda W. Cropp

FIS: "Unemployment Compensation Pension Offset Reduction Amendment Act of 2004"

Page 2 of 2

Department of Employment Services (DOES) indicates that there have been approximately two claims a month that have been offset, usually by a military pension, which as a result of the proposed amendment, would now be paid in full. The current fund balance should be able to support the increased benefit requirement as long as the number of claims does not significantly increase beyond DOES projections.

ENROLLED ORIGINAL

AN ACT
D.C. ACT 15-513

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 2, 2004Codification
District of
Columbia
Official Code

2001 Edition

2004 Fall
Supp.West Group
Publisher

To amend, on an emergency basis, the Office of Administrative Hearings Establishment Act of 2001 to clarify the office's jurisdiction over tax assessment protests and to provide that a person who has chosen to challenge a proposed tax assessment by appealing to the office is deemed to have waived a challenge to the proposed tax assessment in any other forum, and to provide that a board or commission may delegate its authority to hear occupational or professional licensing and discipline cases to the office, with the office's final order appealable to the board or commission; and to amend Title 47 of the District of Columbia Official Code to make conforming changes to reflect the Office of Administrative Hearings' jurisdiction for tax assessment protests.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Office of Administrative Hearings Establishment Emergency Amendment Act of 2004".

Sec. 2. The Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.01 *et seq.*), is amended as follows:

(a) Section 6 (D.C. Official Code § 2-1831.03) is amended as follows:

(1) Subsection (b)(4) is amended to read as follows:

"(4) All adjudicated cases of the Office of Tax and Revenue arising from tax protests filed pursuant to D.C. Official Code § 47-4312."

(2) Subsection (c) is amended by striking the word "agencies" and inserting the phrase "agencies, boards, and commissions" in its place.

(3) New subsections (i) and (j) are added to read as follows:

"(i)(1) A board or commission with authority to issue professional or occupational licenses may delegate to the Office its authority to conduct a hearing and issue an order on the proposed denial, suspension, or revocation of a license or on any proposed disciplinary action against a licensee or applicant for a license. The Office's order shall be appealable to the board or commission pursuant to section 19(b).

"(2) A case that was delegated by a board or commission to an administrative law judge or hearing examiner employed by an agency subject to this act shall be deemed to have been delegated to the Office pursuant to this section as of the date that the agency's adjudicated cases became subject to this act.

"(j) A person who has filed a protest of a proposed assessment under D.C. Official Code § 47-4312 and requested a hearing with the Office shall be deemed to have elected adjudication by the Office as the exclusive means of adjudication of all challenges to the proposed

Amend
§ 2-1831.03

ENROLLED ORIGINAL

assessment, and to have waived any right to adjudication of a challenge to the proposed assessment in any other forum. Nothing in this subsection limits the right of any person to judicial review of an order of the Office pursuant to section 19. This subsection shall apply as of October 1, 2004.”.

Amend
§ 2-1831.16

(b) Section 19(b) (D.C. Official Code § 2-1831.16(b)) is amended by adding a sentence at the end to read as follows:

“A board or commission that delegates a matter pursuant to section 6(i) shall have jurisdiction of any appeal by any party from an order of an Administrative Law Judge issued in that matter.”.

Sec. 3. Title 47 of the District of Columbia Official Code is amended as follows:

Amend
§ 47-1528

(a) Section 47-1528 is amended to read as follows:

“§ 47-1528. Deficiency; request for hearing.

“Assessments of any deficiencies in the tax due under this chapter, or any interest and penalties thereon, shall be governed by § 47-4312.”.

Amend
§ 47-1812.05

(b) Section 47-1812.05 is amended by striking the first 2 sentences, and inserting the following in their place:

“Assessments of any deficiencies in the tax due under this chapter, or any interest and penalties thereon, shall be governed by § 47-4312.”.

Amend
§ 47-2019

(c) Section 47-2019 is amended by striking everything after the first sentence and inserting the following in its place:

“Assessments of any deficiencies in the tax due under this chapter, or any interest and penalties thereon, shall be governed by § 47-4312.”.

Amend
§ 47-2316

(d) Section 47-2316 is amended by striking everything after the first 2 sentences and inserting the following in their place:

“Assessments of any deficiencies in the tax due under this chapter, or any interest and penalties thereon, shall be governed by § 47-4312.”.

Amend
§ 47-2410

(e) Section 47-2410 is amended as follows:

(1) Subsection (a) is amended by striking everything after the first sentence and inserting the following in its place:

“Assessments of any deficiencies in the tax due under this chapter, or any interest and penalties thereon, shall be governed by § 47-4312.”.

(2) Subsection (b) is amended to read as follows:

“(b) Any assessment of tax, penalties, and interest that has become final pursuant to § 47-4312 shall be due and payable within 10 days after service of a final assessment by the Mayor or service of a final order by the Office of Administrative Hearings, as applicable.”.

Amend
§ 47-2412

(f) Section 47-2412 is amended as follows:

(1) Strike the word “Mayor” everywhere it appears, except for its first appearance, and insert the phrase “Office of Administrative Hearings” in its place.

(2) Add a sentence at the end to read as follows:

“This section does not authorize the filing of a request for a hearing with respect to any tax, penalty, or interest that was, or could have been, at issue in any prior proceeding that was conducted by the Superior Court of the District of Columbia or the Office of Administrative Hearings.”.

Amend
§ 47-2413

(g) Section 47-2413 is amended by striking the word “Any” and inserting the phrase “Except as provided in § 47-4312, any” in its place.

Amend
§ 47-3717

(h) Section 47-3717 is amended as follows:

(1) Subsection (a) is amended by striking everything after the first sentence and inserting the following in its place:

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"Assessments of any deficiencies in the tax due under this chapter, or any interest and penalties thereon, shall be governed by § 47-4312."

(2) Subsection (b) is amended to read as follows:

"(b) Any assessment of tax, penalties, and interest that has become final pursuant to § 47-4312 shall be due and payable within 10 days after service of a final assessment by the Mayor or service of a final order by the Office of Administrative Hearings, as applicable."

(3) Subsection (c) is amended by striking the phrase "Any person aggrieved by an assessment of a deficiency in tax finally determined by the Mayor" and inserting the phrase "Except as provided in § 47-4312, any person aggrieved by an assessment of a deficiency in tax" in its place.

Amend
§ 47-3908

(i) Section 47-3908 is amended as follows:

(1) Subsection (a) is amended by striking everything after the first sentence and inserting the following in its place:

"Assessments of any deficiencies in the tax due under this chapter, or any interest and penalties thereon, shall be governed by § 47-4312."

(2) Subsection (b) is amended to read as follows:

"(b) Any assessment of tax, penalties, and interest that has become final pursuant to § 47-4312 shall be due and payable within 10 days after service of a final assessment by the Mayor or service of a final order by the Office of Administrative Hearings, as applicable."

(3) Subsection (c) is amended by striking the phrase "Any person aggrieved by an assessment of a deficiency in tax finally determined by the Mayor" and inserting the phrase "Except as provided in § 47-4312, any person aggrieved by an assessment of a deficiency in tax" in its place.

Amend
§ 47-4217

(j) Section 47-4217 is amended as follows:

(1) Subsection (f) is amended to read as follows:

"(f)(1) Assessment of any penalty under this section shall be governed by § 47-4312.

"(2) Any assessment of a penalty that has become final pursuant to § 47-4312 shall be due and payable within 30 days after service of a final assessment by the Mayor or service of a final order by the Office of Administrative Hearings, as applicable."

(2) Subsection (g) is repealed.

Amend
§ 47-4303

(k) Section 47-4303 is amended by striking the phrase "court," and inserting the phrase "court, and for the period between the filing of a protest in the Office of Administrative Hearings pursuant to § 47-4312 and the issuance of a final order by the Office of Administrative Hearings," in its place.

Amend
§ 47-4312

(l) Section 47-4312 is amended to read as follows:

"§ 47-4312. Protest of assessment.

"(a) Unless otherwise provided in this title, before a final assessment of a deficiency, interest, or penalties against a person, the Mayor shall send the person a proposed assessment. No later than 30 days after the proposed assessment is sent, the person may file a protest with the Office of Administrative Hearings, and shall serve a copy on the Mayor. The protest shall explain why the deficiency, interest, and penalties should not be assessed.

"(b) If the person fails to file a protest in a timely manner under subsection (a) of this section, the Mayor shall send the person a final assessment of the deficiency, interest, or penalties.

"(c) If a protest is filed in a timely manner under subsection (a) of this section, the Mayor may not issue a final assessment of the deficiency, interest, or penalties, and the Office of Administrative Hearings shall decide, after providing an opportunity for a hearing, whether the deficiency, interest, or penalties are proper. Filing a protest shall be deemed to be an election that the Office of Administrative Hearings shall be the exclusive forum to adjudicate all

ENROLLED ORIGINAL

challenges to the proposed assessment, and shall be deemed to be an irrevocable waiver of any right to adjudication of all such challenges in any other forum. Nothing in this subsection limits the right of any person to judicial review pursuant to § 2-1831.16.

“(d) Nothing in this section or in § 2-1831.03(b)(4) shall limit or preclude any person from appealing any assessment to the Superior Court of the District of Columbia pursuant to § 47-3303, or other applicable law, as an alternative to filing a protest with the Office of Administrative Hearings.

“(e) Except with respect to the election of remedy and the waiver of rights required by subsection (c) of this section and by § 2-1831.03(j), a final order of the Office of Administrative Hearings in any matter in which a protest has been filed shall have the same effect as a final assessment of a deficiency, interest, or penalties, and the Mayor may undertake any lawful collection efforts for any amount that such final order determines is due from any person.

“(f) By October 7, 2004, the Office of Tax and Revenue shall notify in writing any person who filed a timely protest of a proposed assessment with the Office of Tax and Revenue on or before September 30, 2004, of his or her right to file a request for a hearing with the Office of Administrative Hearings on or before November 1, 2004. If any such person does not file a timely request for a hearing pursuant to this subsection, the Mayor shall send the person a final assessment of any deficiency, interest, or penalties.”

(m) Section 47-4406(b) is amended by striking the word “Mayor” and inserting the phrase “Mayor, the Office of Administrative Hearings,” in its place.

Amend
§ 47-4406

(n) Section 47-4433 is amended as follows:

Amend
§ 47-4433

(1) The second sentence of subsection (a) is amended by striking the phrase “and provide a period of at least 30 days after the notice is sent to the taxpayer to file a protest.” and inserting the phrase “that he or she may file a protest with the Office of Administrative Hearings to challenge the proposed refund offset within 30 days of service of the notice.” in its place.

(2) Subsection (b) is amended to read as follows:

“(b) Any notice of refund offset described in subsection (a) of this section shall be governed by the procedures set forth in § 47-4312 for assessments of deficiencies.”

(3) Subsection (c) is amended by striking the word “Mayor” and inserting the phrase “Office of Administrative Hearings” in its place.

(o) Section 47-4451(b) is amended to read as follows:

Amend
§ 47-4451

“(b) If a jeopardy assessment has been made, the taxpayer shall have the right to file, within 5 business days, a protest of the assessment of tax, the seizure of property, or both. The protest shall be governed by the procedures set forth in § 47-4312, except that the 30-day filing deadline established in § 47-4312(a) shall not apply. If a timely protest is filed, the property seized for the collection of the tax shall not be sold until completion of the proceedings in the Office of Administrative Hearings.”

(p) Section 47-4452(b) is repealed.

Amend
§ 47-4452

Sec. 4. Applicability.

Section 3 shall apply as of October 1, 2004.

Note,
§ 47-4312

Sec. 5. Fiscal impact statement.

The legislation will not have any adverse fiscal impact. The first main provision of the legislation, which requires an individual or business pursuing a tax protest to select either the Office of Administrative Hearings or the Superior Court of the District of Columbia as the exclusive forum for pursuing the protest, should have a positive fiscal impact. This requirement will conserve the resources of the Office of Administrative Hearings (as well as the resources of the Superior Court, which is funded by the federal government) and promote efficiency by

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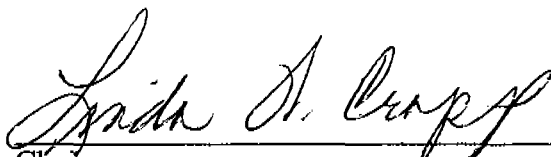
barring a taxpayer from filing the same protest in 2 forums.

The second main provision, which allows boards and commissions to delegate cases to the Office of Administrative Hearings, will not have a fiscal impact because the delegation is optional and requires the approval of the Office of Administrative Hearings' Chief Judge as well as the Mayor. These protections ensure that the Office of Administrative Hearings will not have to take cases if it does not have the funds to do so. Moreover, the health occupational and professional boards previously delegated their cases to a central adjudication panel in the Department of Health, which has already transferred its functions, financial resources, and positions to the Office of Administrative Hearings. Therefore, there will be no fiscal impact on the Office of Administrative Hearings due to the adoption of this provision because the new responsibilities have been accompanied by the resources associated with the responsibilities.

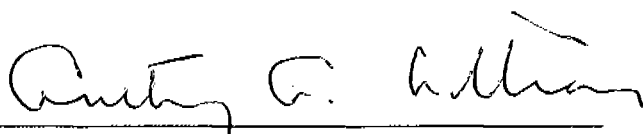
The changes to Title 47 of the District of Columbia Official Code are conforming changes that align the provisions of the Office of the Administrative Hearings Establishment Act of 2001 with those in Title 47. Therefore, these changes will not have a fiscal impact.

Sec. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
August 2, 2004

AN ACT

D.C. ACT 15-514

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 2, 2004*Codification
District of
Columbia
Official Code*

2001 Edition

2004 Fall
Supp.West Group
Publisher

To amend, on an emergency basis, the District of Columbia Procurement Practices Act of 1985 and the Reprogramming Policy Act of 1980 to extend the Council's review period of contracts and reprogramming requests until September 21, 2004, or later, where a disapproval resolution has been introduced during the period of July 15, 2004 through August 15, 2004.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Council Review Extension Emergency Amendment Act of 2004".

Sec. 2. Section 105a of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-301.05a), is amended as follows:

Note,
§ 2-301.05a

(a) Subsection (b) is amended by adding a new paragraph (3) to read as follows:

"(3) Notwithstanding paragraph (2) of this subsection, if a resolution of disapproval is introduced between July 15, 2004, and August 15, 2004, the Council review period shall run from the day the contract is received by the Office of the Secretary to the Council until September 21, 2004."

(b) Subsection (j) is amended by adding a new paragraph (2A) to read as follows:

"(2A) Notwithstanding paragraphs (1) and (2) of this subsection, if a resolution of disapproval is introduced between July 15, 2004, and August 15, 2004, the Council review period shall run from the day the summary is received by the Chairman until September 21, 2004, or until 15 days from the date that the Mayor submits the proposed contract to the Council, not including Saturdays, Sundays, or legal holidays, whichever is later."

Sec. 3. Section 4(e) of the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3-100; D.C. Official Code § 47-363(e)), is amended by adding a new paragraph (6) to read as follows:

"(6) Notwithstanding paragraphs (2), (3), and (4) of this subsection, if a notice of disapproval is filed with the Office of the Secretary to the Council between July 15, 2004, and

ENROLLED ORIGINAL

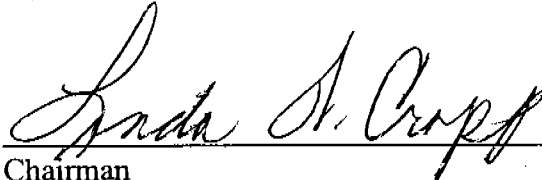
August 15, 2004, the Council review period shall run from the initial receipt of the request from the Mayor until September 21, 2004.”.

Sec. 4. Fiscal impact statement.

This legislation has no fiscal impact.

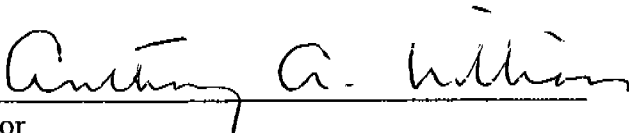
Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-204.12(a)), and publication in the District of Columbia Register.



Chairman

Council of the District of Columbia



Mayor

District of Columbia

APPROVED

August 2, 2004

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-515

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 2, 2004

Codification
District of
Columbia
Official Code

2001 Edition

2004 Fall
Supp.West Group
Publisher

To amend, on an emergency basis, due to Congressional review, the National Capital Revitalization Act of 1998 to clarify the procedures by which the National Capital Revitalization Corporation may exercise its eminent domain authority, and to approve the exercise of eminent domain authority by the National Capital Revitalization Corporation or the RLA Revitalization Corporation in the Skyland area.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "National Capital Revitalization Corporation Eminent Domain Clarification and Skyland Eminent Domain Approval Congressional Review Emergency Amendment Act of 2004".

Sec. 2. The National Capital Revitalization Act of 1998, effective September 11, 1998 (D.C. Law 12-144; D.C. Official Code § 2-1219.01 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 2-1219.01) is amended as follows:

Note,
§ 2-1219.01

(1) A new paragraph (30A) is added to read as follows:

"(30A) 'Project area' means a geographic area designated by the Corporation, by a majority vote of the Board, for which the Corporation has developed a site and use plan, which shall include the following elements:

"(A) The reasons for the designation of the area;

"(B) A description of the area, which shall include:

"(i) The total number of square feet or acres within the area;

"(ii) A map of the area that identifies the property; and

"(iii) A description of the physical and economic

conditions existing in the area;

"(C) A description of the development proposed by the Corporation for the area, including:

"(i) A description of the buildings, other structures, parks, public spaces, or public amenities to be constructed or rehabilitated; and

"(ii) A description of the uses to be located on the site; and

"(D) A description of how the development or developments in the project area will improve or alleviate the conditions described in subparagraph (B)(iii) of this paragraph."

(2) A new paragraph (36A) is added to read as follows:

“(36A) “Slum area” means an area where there is a predominance of buildings or improvements, whether residential or nonresidential, which are impaired or substandard by reason of dilapidation, deterioration, age, or obsolescence which:

“(A) Contribute to physical or economic conditions conducive to disease, infant mortality, juvenile delinquency, poverty, or crime; and

“(B) Endanger life or property by fire or other causes.”.

(b) Section 8(b) (D.C. Official Code § 2-1219.07(b)) is amended by striking the phrase “shall be conducted” and inserting the phrase “shall be conducted pursuant to the following procedures and” in its place.

Note,
§ 2-1219.07

(c) Section 20 (D.C. Official Code § 2-1219.19) is amended as follows:

Note,
§ 2-1219.19

(1) Subsection (a) is amended as follows:

(A) The introductory language is amended as follows:

(i) Add the phrase “; provided, the declaration of taking may be signed by the chief executive officer of the Corporation” after the phrase “16-1316”.

(ii) Strike the phrase “to be a” and insert the phrase “to be” in its place.

(B) Paragraphs (1), (2), (3), and (4) are amended to read as follows:

“(1) A redevelopment district;

“(2) A project area;

“(3) A blighted area or slum area;

“(4) A blighted area, slum area, or substandard area within the meaning of the Redevelopment Act;”.

(C) New paragraphs (5) and (6) are added to read as follows:

“(5) An area subject to an urban renewal or redevelopment plan; or

“(6) An area subject to a neighborhood development plan.”.

(2) Subsection (b) is amended by striking the phrase “any exercise of eminent domain powers that is approved by an affirmative vote of the Corporation shall be submitted to the Council” and inserting the phrase “the Corporation shall submit to the Council a resolution to approve the exercise of eminent domain powers” in its place.

(3) A new subsection (c) is added to read as follows:

“(c) Notwithstanding the second or last sentence of subsection (a) of this section and notwithstanding subsection (b) of this section the Council, finding that the properties below are necessary and desirable for the public use, approves the exercise of eminent domain by the National Capital Revitalization Corporation or the RLA Revitalization Corporation for the following parcels and lots and squares: Square 5632, Lot 1; Square 5632, Lot 2; Square 5632, Lot 3; Square 5632, Lot 4; Square 5632, Lot 5; Square 5632, Lot 802; Square 5633, Lot 800; Square 5633, Lot 801; Square 5641, Lot 0010; Square 5641, Lot 0011; Square 5641, Lot 0012; Square 5641, Lot 0012; Square 5641, Lot 0891; Square 5641N, Lot 0012; Square 5641N, Lot 0013; Square 5641N, Lot 0014; Square 5641N, Lot 0015; Square 5641N, Lot 0016; Square 5641N, Lot 0017; Square 5641N, Lot 0018; Square 5641N, Lot 0019; Square 5641N, Lot 0020; Square 5641N, Lot 0021; Square 5641N, Lot 0022; Square 5641N, Lot 0023; Square 5641N, Lot 0024; Square 5641N, Lot 0025; Square 5641N, Lot 0026; Square 5641N, Lot 0027; Square 5641N, Lot 0028; Square 5641N, Lot 0029; Square 5641N, Lot 0030; Square 5641N, Lot 0031; Square 5641N, Lot 0033; Parcel 02130052; Parcel 02130060; Parcel 02130061; Parcel 02140062; Parcel 02140088; Parcel 02140104; Parcel 02140182; Parcel 02140187; Parcel 02140189; Parcel 02140190; and Parcel 02140196 and for any other parcel located within the

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geographic area bounded by a line beginning at a point at the intersection of the northerly line of Good Hope Road, S.E., with the northerly line of Alabama Avenue, S.E., and running thence Northwesterly along said line of Good Hope Road, S.E., extended, to intersect a point on the east line of Naylor Road, S.E.; thence Northwesterly along said line of Naylor Road, to a point at the northwesterly corner of Lot 801 in Square 5633; thence Northeasterly along the northerly line of said lot & square, to a point at the westernmost corner of Parcel 213/52; thence continuing northeasterly along the northerly line of said Parcel 213/52, to a point at the southwesterly corner of Parcel 213/60; thence northwesterly along the arc of a curve, deflecting to the right, along the westerly line of said Parcel 213/60, to a point at the northernmost corner of said Parcel 213/60; thence Southeasterly along the easterly lines of said Parcels 213/60 and 213/52, to a point at the northwesterly corner of Lot 33 in Square North of Square 5641; thence Easterly along the north property lines of said Lot 33, and Lots 16 through 31, both inclusive, in Square North of Square 5641, to a point at the northeast corner of said Lot 31 in said square; thence South along the east line of said Lot 31 in said square, to a point at the southeast corner thereof; thence Westerly along the south lines of said Lots 31, 30, 29, 28, 27, 26, 25, 24, 23 and 22 in said square, to a point at the southwest corner of said Lot 22, to intersect a line drawn Northwesterly from the northeast corner of Lot 12 in Square North of Square 5641; thence Southeasterly along said line drawn and the east line of said Lot 12 in said square, to a point at the southeast corner thereof, to a point that intersects a line drawn Northwesterly from the northeast corner of Lot 13 in Square 5641; thence Southeasterly along said line drawn and the east line of said Lot 13 in said square, to a point at the southeast corner thereof; thence Southwesterly along the south property lines of Lots 13 and 12 in Square 5641, to a point that intersects a line drawn Northwesterly from the northeast corner of Lot 819 in Square 5641; thence Southeasterly along said line drawn and the east line of said Lot 819 in said square, to a point at the southeast corner of said Lot 819 in said square, on the north line of Alabama Avenue, S.E.; and thence southwesterly along the arc of a circle, deflecting to the right, along said line of Alabama Avenue, to the point of beginning."

Sec. 3. Fiscal impact statement.

The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

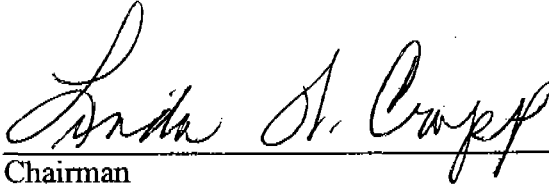
Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto) and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

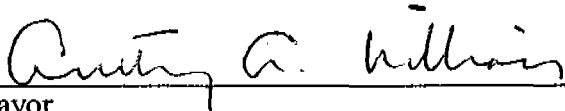
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ENROLLED ORIGINAL

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
August 2, 2004

COUNCIL OF THE DISTRICT OF COLUMBIA
OFFICE OF THE BUDGET DIRECTOR

FISCAL IMPACT STATEMENT

Bill Number: 15-752	Type: Emergency () Temporary () Permanent (X)	Date Reported: May 2004
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Subject/Short Title: National Capital Revitalization Corporation Eminent Domain Clarification and Skyland Eminent Domain Approval Amendment Act of 2004

Part I. Summary of the Fiscal Estimates of the Bill

	YES	NO
1. It will impact spending. (If "Yes," complete Section 1 in the Fiscal Estimate Worksheet).	()	(X)
a) It will affect local expenditures.	()	()
b) It will affect federal expenditures.	()	()
c) It will affect private/other expenditures.	()	()
d) It will affect intra-District expenditures.	()	()
2. It will impact revenue. (If "Yes," complete Section 2 in the Fiscal Estimate Worksheet).	()	(X)
a) It will impact local revenue.	()	()
b) It will impact federal revenue.	()	()
c) It will impact private/other revenue.	()	()
d) It will impact intra-District revenue.	()	()
3. The bill will have NO or minimal fiscal impact. (If "Yes," explain below).	(X)	()
The legislation would authorize the National Capital Revitalization Corporation or the RLA Revitalization Corporation to exercise eminent domain authority to implement the Skyland shopping center redevelopment project. The legislation does not require any expenditures; it merely provides authority to these agencies to take certain actions.		

Part II. Other Impact of the Bill

If you check "Yes" for each question, please explain on separate sheet, if necessary.

	YES	NO
1. It will affect an agency and/or agencies in the District. The legislation would authorize the National Capital Revitalization Corporation or the RLA Revitalization Corporation to exercise eminent domain authority to implement the Skyland shopping center redevelopment project. The legislation does not require either agency to exercise the authority.	(X)	()
2. Are there performance measures/output for this bill?	()	(X)
3. Will it have results/outcome, i.e., what would happen if this bill is not enacted? By authorizing NCRC and/or RLARC to exercise eminent domain for the Skyland shopping center redevelopment project, the legislation will allow this long-awaited project to move forward.	(X)	()
4. Are funds appropriated for this bill in the Budget and Financial Plan for the current year? Because the legislation merely authorizes certain actions, but does not require any actions or expenditures, no additional funds need to be appropriated at this time.	(X)	()

Sources of information:

Councilmember: Harold Brazil

Staff Person & Tel: Barry Kreiswirth 724-8792

Council Budget Director's Signature

ATLANTA

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-516

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 2, 2004*Codification
District of
Columbia
Official Code*

2001 Edition

2004 Fall
Supp.West Group
Publisher

To amend, on an emergency basis, due to Congressional review, section 3 of the Removal from the Permanent System of Highways, a Portion of 22nd Street, S.E., and the Dedication of Land for Street Purposes (S.O. 00-89) Act of 2002 to reference the revised Surveyor's plat filed under S.O. 00-89.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Removal from the Permanent System of Highways, a Portion of 22nd Street, S.E., and the Dedication of Land for Street Purposes (S.O. 00-89) Technical Congressional Review Emergency Amendment Act of 2004".

Sec. 2. Section 3 of the Removal from the Permanent System of Highways, a Portion of 22nd Street, S.E., and the Dedication of Land for Street Purposes (S.O. 00-89) Act of 2002 effective April 4, 2003 (D.C. Law 14-287; D.C. Official Code § 9-203.02, note), is amended by adding the word "revised" after the phrase "as shown on the" in the first sentence.

*Note,
§ 9-203.02*

Sec. 3. Fiscal impact statement.

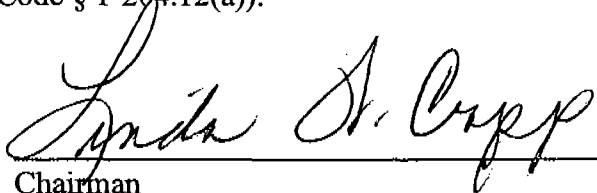
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).


Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED
August 2, 2004

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-517

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 2, 2004*Codification
District of
Columbia
Official Code*

2001 Edition

2004 Fall
Supp.West Group
Publisher

To amend, on an emergency basis, due to Congressional review, the Omnibus Budget Support Act of 1995 to authorize the District of Columbia Board of Education to implement a retirement incentive program for a limited declaration period between April 1, 2004, and May 14, 2004, for members of the District of Columbia Teachers' Retirement System who are eligible for regular retirement on or before May 14, 2004, and who will have an effective retirement date between June 25, 2004 and June 30, 2004.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Teacher Retirement Incentive Program Congressional Review Emergency Amendment Act of 2004".

Sec. 2. Section 901 of the Omnibus Budget Support Act of 1995, effective September 26, 1995 (D.C. Law 11-52; D.C. Official Code § 38-2041.01), is amended as follows:

Note,
§ 38-2041.01

(a) Subsection (a) is amended by striking the phrase "the personnel authority of the Board of Education." and inserting the phrase "the personnel authority of the Board of Education, who are enrolled in retirement systems established pursuant to An Act For the retirement of public-school teachers in the District of Columbia, approved, August 7, 1946 (60 Stat. 575; D.C. Official Code §§38-2021.01 – 38-2021.23), commonly known as "the District of Columbia Teachers' Retirement System." in its place.

(b) Subsection (c) is repealed.

(c) Subsections (d) and (e) are amended to read as follows:

"(d) The program shall be limited to employees who are eligible to voluntarily retire on or before May 14, 2004, pursuant to section 3 of An Act For the retirement of public-school teachers in the District of Columbia, approved August 7, 1946 (60 Stat. 875; D.C. Official Code § 38-2021.03), and who declare their intent to retire between April 1, 2004 and May 14, 2004, with an effective retirement date between June 25, 2004 and June 30, 2004.

"(e) The program shall offer a retirement incentive of an amount to be determined by the Board, not to exceed \$23,250, to be paid in one installment."

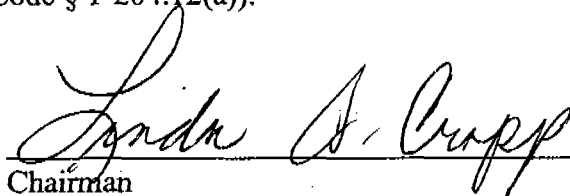
ENROLLED ORIGINAL

Sec. 3. Fiscal impact statement.

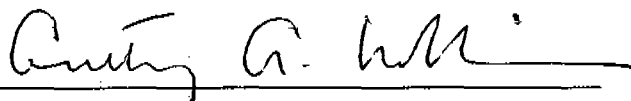
The Council authorized expenditure of an amount not to exceed \$5 million for the District of Columbia Public Schools for the Teacher Buyout Incentive Program on February 3 2004 (D.C. Act 15-387). The use of Reserve funds is already incorporated into the District's budget and financial plan and, therefore, the enactment of this legislation has no fiscal impact.

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
August 2, 2004

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-518

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 2, 2004Codification
District of
Columbia
Official Code

2001 Edition

2004 Fall
Supp.West Group
Publisher

To amend, on an emergency basis, due to Congressional review, the District of Columbia Revenue Act of 1937 to authorize rules of procedures to provide for the suspension or revocation of a registration issued to an owner or dealer who provides or obtains a counterfeit, stolen, or otherwise fraudulent temporary identification tag, to provide for the forfeiture of a motor vehicle knowingly used with a counterfeit, stolen, or otherwise fraudulent temporary identification tag, to increase the maximum fine for a violation of An Act to Provide Additional Revenue for the District of Columbia, and for other purposes from \$300 to \$1000, and to provide due process protection to a person claiming an interest in a motor vehicle seized or forfeited pursuant to this act.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Use of Fraudulent Temporary Identification Tags and Automobile Forfeiture Congressional Review Emergency Amendment Act of 2004".

Sec. 2. The District of Columbia Revenue Act of 1937, approved August 17, 1937 (50 Stat. 679; D.C. Official Code § 50-1501.01 *et seq.*), is amended as follows:

(a) Section 2(g) (D.C. Official Code § 50-1501.02(g)) is amended as follows:

Note,
§ 50-1501.02

(1) Paragraph (2) is amended by striking the phrase "'DCMR; and" and inserting the phrase "DCMR, or who provides or obtains a counterfeit, stolen, or otherwise fraudulent temporary identification tag; and" in its place.

(2) Paragraph (3) is amended by adding a new subparagraph (C) to read as follows:

"(C) To establish procedures for the seizure and forfeiture of a motor vehicle used with a counterfeit, stolen, or otherwise fraudulent temporary identification tag."

(b) Section 4 (D.C. Official Code § 50-1501.04) is amended as follows:

Note,
§ 50-1501.04

(1) Subsection (a) is amended by adding a new paragraph (4) to read as follows:

"(4) For the owner of any motor vehicle to knowingly use or permit the use of any motor vehicle with a counterfeit, stolen, or otherwise fraudulent temporary identification tag."

ENROLLED ORIGINAL

(2) Subsection (b) is amended as follows:

(A) Designate the existing text as paragraph (1).

(B) Strike the figure "\$300" and insert the figure "\$1000" in its place.

(C) Add a new paragraph (2) to read as follows:

"(2) A motor vehicle knowingly being used in violation of subsection (a)(4) of this section shall be subject to seizure by the Mayor or by any law enforcement officer of the District and to forfeiture to the District in accordance with 6A DCMR §§ 805-810; such seizure and forfeiture may be in addition to the imposition of a fine or imprisonment as provided for in paragraph (1) of this subsection."

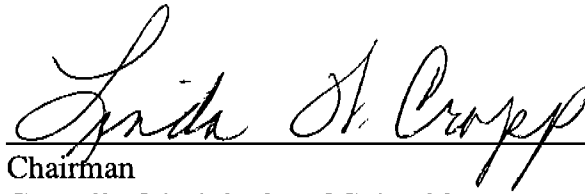
Sec. 3. The Mayor is authorized to promulgate such rules and regulations as are necessary to carry out the purposes of this act.

Sec. 4. Fiscal impact statement.

The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D. C. Official Code § 1-206.02(c)(3)).

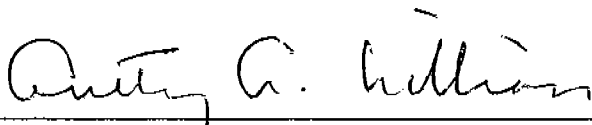
Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman

Council of the District of Columbia



Mayor

District of Columbia

APPROVED

August 2, 2004

Codification District of Columbia Official Code, 2001 Edition

Government of the District of Columbia
Office of the Chief Financial Officer

Natwar M. Gandhi
Chief Financial Officer



TO: The Honorable Linda W. Cropp
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi
Chief Financial Officer

DATE: APR -6 2004

SUBJECT: Fiscal Impact Statement: "Disregard for Motor Vehicle Laws
and Automobile Forfeiture Emergency Amendment Act of
2004"

REFERENCE: Draft Legislation as Introduced - No Bill Number Available

Conclusion

Funds are sufficient in the FY 2004 budget and the proposed FY 2005 through FY 2008 budget and financial plan. No additional staff or resources will be required to implement the provisions of the proposed legislation.

Background

The proposed legislation increases the fines and penalties for automotive violations with regard to vehicle registration, specifically an illegal¹ use of temporary license plates. The current fine will be increased from \$300 and/or imprisonment up to 30 days to \$1,000 and/or imprisonment up to 30 days. In addition, under the proposed legislation the vehicle is subject to seizure and disposal.

Financial Plan Impact

The District only collects and retains civil fines and penalties. The Superior Court retains funds collected as fines and fees for criminal judgments. Funds are sufficient in the FY 2004 and the proposed FY 2005 through FY 2008 budget and financial plan to implement the amendments made by the proposed legislation. No additional staff or resources will be required.

¹ D.C. Official Code Title 50 § 1501.04 *et Sequit*

AN ACT
D.C. ACT 15-519

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 2, 2004

*Codification
District of
Columbia
Official Code*

2001 Edition

2004 Fall
Supp.

West Group
Publisher

To amend, on an emergency basis, the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998 and the District of Columbia School Reform Act of 1995 to provide a definition for resident student, to clarify the dates of the pupil counts to which appropriations under the Uniform Per Student Funding Formula apply for District of Columbia public schools versus that for public charter schools, to require the Mayor to establish a committee to adopt a policy governing proof of District residency for school enrollment purposes, to define requirements and responsibility for audits of enrollment at District of Columbia public schools and public charter schools, to provide for quarterly payments to the public charter schools, to define their schedule and basis in enrollment, to clarify the effect the annual enrollment audit is to have upon the schedule and amount of payments, to make conforming amendments regarding the definition of nonresident and quarterly enrollment reporting Funding Formula, to require that the Mayor be responsible for collecting enrollment reports until the State Education Office assumes the role to eliminate redundant or inconsistent audit provisions, to make conforming amendments to the fund transfer provisions for public charter schools, and to clarify the definition of new schools.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Public School Enrollment Integrity Clarification Emergency Amendment Act of 2004".

Sec. 2. The Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998, effective March 26, 1999 (D.C. Law 12-207; D.C. Official Code § 38-2901 *et seq.*), is amended as follows:

(a) Section 102 (D.C. Official Code § 38-2901) is amended by adding a new paragraph (10A) to read as follows:

Note,
§ 38-2901

“(10A) “Resident student” means a minor enrolled in a District of Columbia public school or public charter school who has a parent, guardian, or custodian residing in the

ENROLLED ORIGINAL

District of Columbia or an adult enrolled in a District of Columbia public school or a public charter school who resides in the District of Columbia.”

(b) Section 107 (D.C. Official Code § 38-2906) is amended to read as follows:

Note,
§ 38-2906

"(a) Annual appropriations for the DCPS pursuant to the Formula shall be based on the number of resident students enrolled in the DCPS on October 5 in the year preceding the fiscal year for which the appropriation is made. This count shall be verified as provided in subsection (e) of this section.

"(b) Annual appropriations for the public charter schools pursuant to the Formula shall equal the total estimated costs for the following:

"(1) The number of resident students enrolled in all public charter schools combined as of October 5 in the year preceding the fiscal year for which the appropriation is made, and verified as provided in subsection (e) of this section, plus or minus;

"(2) The number of resident students projected to be enrolled in all public charter schools combined during the fiscal year for which the appropriation is made, and calculated as provided in subsection (f) of this section, plus;

"(3) The annual budget of the District of Columbia Public Charter School Board and, beginning in fiscal year 2002, the Public Charter School Office of the Board of Education, plus;

"(4) Five percent of the total amount generated pursuant to paragraphs (1), (2) and (3) of this subsection, to be put into escrow as a reserve for payments to public charter schools in case enrollment, including enrollment in special needs categories, should exceed that of the projections on which costs are based pursuant to paragraph (2) of this subsection. Any amount remaining in the escrow at the end of each fiscal year shall revert to the General Fund.

"(c) The Mayor shall establish a committee to develop and implement, within 90 days of the effective date of the Public School Enrollment Integrity Congressional Review Emergency Amendment Act of 2001, effective November 29, 2001 (D.C. Act 14-19; 48 DCR 11239), a policy governing proof of District residency for the purposes of this section and the District of Columbia Nonresident Tuition Act, approved September 8, 1970 (74 Stat. 853; D.C. Official Code § 38-302 *et seq.*). The committee shall be composed of the Mayor, the Chair of the Council Committee on Education, Libraries and Recreation, the Superintendent of District of Columbia Public Schools, a representative of each of the eligible chartering authorities, and a representative of the D.C. Charter Public School Coalition. Upon establishment of a state education office, the Mayor shall transfer this function to that office.

"(d) The residency policy developed pursuant to subsection (c) of this section shall apply to students in DCPS and the public charter schools.

"(e) The student counts reported for October 5 of each year shall be verified by an independent contractor commissioned by the Mayor. The independent contractor shall perform a census on the student enrollment of each DCPS and of each public charter school. The verification process shall begin no later than one week following the day on which the count is

ENROLLED ORIGINAL

taken. The verification shall cover the information required by section 2402 of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 257; D.C. Official Code § 38-1804.02) ("School Reform Act"), and shall be transmitted by the Mayor to the Council, the Authority, the Comptroller General of the United States, and the appropriate congressional committees no later than the following December 31. Until the verification is transmitted, the unaudited October count shall serve as the basis for the annual appropriation for the following fiscal year and for quarterly payments.

"(f) Preliminary projections of Public Charter School enrollment shall be made by each chartering authority for the Public Charter Schools under its supervision, and submitted to the Mayor by the date on which the DCPS is required to submit its budget request to the Mayor. The chartering authorities may submit revisions of such projections to the Mayor and Council at any time before the Council committee with oversight responsibilities for the public education budget reports its recommendations on that budget to the Council."

(c) A new section 107a is added to read as follows:

"Sec. 107a. Payments.

"(a) Except as provided in subsection (b)(2) of this section, following the enactment of an act making appropriations for the District of Columbia each fiscal year, the Mayor shall provide to DCPS the full amount of its appropriation in accordance with standard procedures for independent agencies. The Mayor shall make payments to each public charter school from the escrow account established under section 2403 of the School Reform Act to a bank designated by each school. The annual payment shall be made in the form of four equal quarterly payments calculated in accordance with subsections (b), (c) and (d) of this section, provided; however, that the entire annual payment for facilities pursuant to section 109 shall be included in the first payment of the fiscal year and that any payment for new charter schools pursuant to section 2403 of the School Reform Act shall also be included in the first payment of the fiscal year. The first payment shall be made no later than July 15; subsequent payments shall be made no later than October 15, January 15, and April 15.

"(b)(1) Except as provided in paragraph (2) of this subsection, each payment shall be one-fourth of each public charter school's entitlement based on its October enrollment count. The basis of the July 15 and October 15 payments shall be the unaudited numbers contained in the reports submitted by the eligible chartering authorities under section 2402(a) of the School Reform Act. The basis of the January 15 and April 15 payments shall be the audited October enrollment numbers, provided that these amounts shall be adjusted in accordance with the provisions of subsection (c) of this section.

"(2) The payment of October 15, 2000 shall be 50% of each public charter school's entitlement based on its unaudited October 5 enrollment count.

"(c) Payments shall not be reduced or delayed pending the conduct and results of the audit prescribed by section 107(e). If the audit finds that the number of verified resident students in enrollment at any public charter school differs from that on which its July 15 and

ENROLLED ORIGINAL

October 15 payments were based, the Mayor shall recalculate the appropriate amount of subsequent payments accordingly, adjusting them by the amount of the discrepancy.

"(d) Payments for special education, limited English proficient students, and other add-on components of the Funding Formula shall be included in the quarterly payments to public charter schools. Payments shall reflect one-quarter of the annual per student amount for each add-on; provided, however, that add-ons for special education and limited English proficient students shall be added on a pro rata basis from the date on which a public charter school begins to provide add-on services for such students.

"(e) Prior to or concurrent with any payment made pursuant to this section, the Chief Financial Officer of the District of Columbia shall provide to each public charter school an accounting indicating what the payment is for and how it was calculated."

Sec. 3. The District of Columbia School Reform Amendment Act of 1995, approved April 26, 1996 (110 Stat. 226; D.C. Official Code § 38-1800.01 *et seq.*), is amended as follows:

(a) Section 2002(25)(A) (D.C. Official Code § 38-1800.02(25)(A)) is amended by striking the word "parent" and inserting the phrase "parent, guardian or custodian" in its place.

Note,
§ 38-1800.02

(b) Section 2402 (D.C. Official Code § 38-1804.02) is amended as follows:

Note,
§ 38-1804.02

(1) Subsection (a) is amended to read as follows:

"(a) *Quarterly reporting requirement.* – On June 30, October 15, December 15, and March 30 of each year the District of Columbia public schools and each eligible chartering authority shall submit a report to the Mayor containing the information described in subsection (b) of this section that is applicable to their schools; provided, however, that in the case of the June 30 report, the information submitted by each eligible chartering authority shall be in the form of estimates of the number of students who will fall into each category on the following October 5."

(2) Subsection (b) is amended by striking the phrase "*Calculation of the number of students.* -- Not later than 30 days after April 26, 1996, and not later than October 15, of each year thereafter, the State Education Office shall calculate the following:" and inserting the phrase "*Information required.* -- The reports described in subsection (a) of this section shall contain the following information:" in its place.

(3) Subsection (c) is amended to read as follows:

"(c) *Annual reports.* – Not later than October 30 of each year the Mayor shall prepare and submit to the Authority (during a control year), the Council, the Comptroller General of the United States, and the appropriate congressional committees a report containing a summary of the calculations made pursuant to subsection (b) of this subsection, including the four immediately prior reporting periods specified in subsection (a) of this section."

(4) Subsection (d) is repealed.

(c) Section 2403 (D.C. Official Code § 38-1804.03) is amended as follows:

Note,
§ 38-1804.03

(1) Subsection (a)(2) is amended as follows:

ENROLLED ORIGINAL

(A) Subparagraph (A) is amended to read as follows:

"(A) *Initial payment.* --

"(i) *In General.* -- Except as provided in sub-subparagraph (ii) of this subparagraph, no later than July 15, October 15, January 15, and April 15 of each year, the Mayor shall transfer, by electronic funds transfer, the quarterly payments for each public charter school as prescribed in section 107a of the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998, passed by the Council on an emergency basis on July 13, 2004 (Enrolled version of Bill 15-965), to a bank designated by such school.

"(ii) *Reduction in case of a new school.* -- In the case of a public charter school that has received a payment pursuant to subsection (b) of this section in the fiscal year immediately preceding the fiscal year in which a transfer pursuant to sub-subparagraph (i) of this subparagraph is made, the amounts transferred to the school under sub-subparagraph (i) of this subparagraph shall be reduced by an amount equal to 25% of the amount of the payment made pursuant to subsection (b) of this section."

(B) Subparagraph (B) is repealed.

(2) Subsection (b) is amended as follows:

(A) Paragraph (4) is amended to read as follows:

"(4) *Credits to fund.* -- Upon the receipt of each of its payments pursuant to subsection (a)(2)(A) of this section by a public charter school described in paragraph (5) of this subsection, the Chief Financial Officer of the District of Columbia shall credit the New Charter School Fund with 25 % of the amount paid to the school pursuant to paragraph (3) of this subsection."

(B) Paragraph (5)(B) is amended to read as follows:

"(B) Has had its petition to establish a public charter school approved pursuant to section 2203 and is scheduled to begin operation as a public charter school in the fiscal year for which funds are appropriated to carry out the provisions of this subsection."

(3) A new subsection (d) is added to read as follows:

"(d) *Additional payment to new schools.* -- Until section 441 of the District of Columbia Home Rule Act is amended to establish the first day of the fiscal year for D.C. Public Schools and Public Charter Schools as July 1, the amount of payment to a public charter school described in subsection (b)(5)(B) of this section, shall be increased by 1/12 of the total dollar amount to which the public charter school is entitled for the fiscal year based on its unaudited October 5 enrollment."

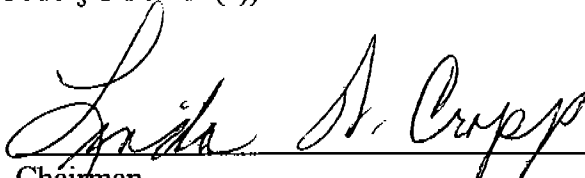
Sec. 4. Fiscal impact statement.

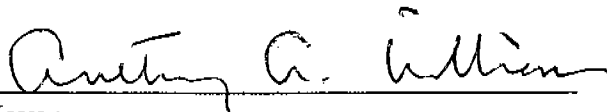
The fiscal impact statement is attached.

ENROLLED ORIGINAL

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto) and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED
August 2, 2004

**COUNCIL OF THE DISTRICT OF COLUMBIA
OFFICE OF THE BUDGET DIRECTOR FISCAL IMPACT STATEMENT**

Bill Number:	Type: Emergency (<input checked="" type="checkbox"/>) Temporary (<input checked="" type="checkbox"/>) Permanent (<input type="checkbox"/>)	Date Reported: Sept. 16, 2003
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Subject/Short Title: "Public School Enrollment Integrity Clarification Act of 2003"

Part I: Summary of the Fiscal Estimates of the Bill		
	YES	NO
1. It will impact spending. (If "Yes," complete Section 1 in the Fiscal Estimate Worksheet).	()	(x)
a) It will affect local expenditures.	()	()
b) It will affect federal expenditures.	()	()
c) It will affect private/other expenditures.	()	()
d) It will affect intra-District expenditures.	()	()
2. It will impact revenue. (If "Yes," complete Section 2 in the Fiscal Estimate Worksheet).	()	(x)
a) It will impact local revenue.	()	()
b) It will impact federal revenue.	()	()
c) It will impact private/other revenue.	()	()
d) It will impact intra-District revenue.	()	()
3. The bill will have NO or minimal fiscal impact. (If "Yes," explain below).	(x)	()
<p>Explanation: This bill no fiscal impact because it does not cause the District to do anything new. It only legalizes the current practices of the OCFO, Public Schools and Public Charter Schools. This bill is need because prior legislation that mandated these practices has expired.</p>		

Part II: Other Impact of the Bill		
	YES	NO
If you check "Yes" for each question, please explain on separate sheet, if necessary.		
1. It will affect an agency and/or agencies in the District.	(x)	()
2. Are there performance measures/output for this bill?	()	()
3. Will it have results/outcome, i.e., what would happen if this bill is not enacted?	(x)	()
4. Are funds appropriated for this bill in the Budget and Financial Plan for the current year?	(x)	()

Sources of information: SEO, OCFO, Office of Corporation Council. General Counsel for the Council of D.C.	Councilmember: Kevin P. Chavous
	Staff Person & Tel: Kevin K. Otuome
	Council Budget Director's Signature: <i>[Signature]</i> 9/16/03

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-520

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 2, 2004*Codification
District of
Columbia
Official Code*

2001 Edition

2004 Fall
Supp.West Group
Publisher

To amend, on an emergency basis, Title 47 of the District of Columbia Official Code to exempt from taxation certain property owned by the Veterans of Foreign Wars Department of the District of Columbia and to provide equitable real property tax relief to the organization.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Veterans of Foreign Wars Real Property Tax Exemption and Equitable Real Property Tax Relief Emergency Act of 2004".

Sec. 2. Chapter 10 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents to the chapter is amended by adding a new section designation to read as follows:

"§47-1057. Property owned by the Veterans of Foreign Wars Department of the District of Columbia ; lot 0040, square 5167."

(b) A new section 47-1057 is added to read as follows:

"§47-1057. Veterans of Foreign Wars Department of the District of Columbia; lot 0040, square 5167.

"Property situated in square 5167, located at 1601 Kenilworth Avenue, N.E., described as lot 0040, owned, occupied, and used by the Veterans of Foreign Wars Department of the District of Columbia, is hereby exempt from all taxation so long as this same property continues to be owned and occupied by the Veterans of Foreign Wars Department of the District of Columbia, and not used for commercial purposes, subject to the provision of § 47-1002, providing for exemption of certain real properties."

Sec. 3. The Council of the District of Columbia orders that all real property taxes, interest, penalties, fees, and other related charges assessed against the property owned by the Veterans of Foreign Wars Department of the District of Columbia for the period of May 1,

ENROLLED ORIGINAL

2002, until the effective date of this act, on real property located at 1601 Kenilworth Avenue, N.E., Washington, D.C., lot 0040 in square 5167 be forgiven.

Sec. 4. Inclusion in the budget and financial plan.

This act shall take effect subject to the inclusion of its fiscal effect in an approved budget and financial plan.

Sec. 5. Applicability.

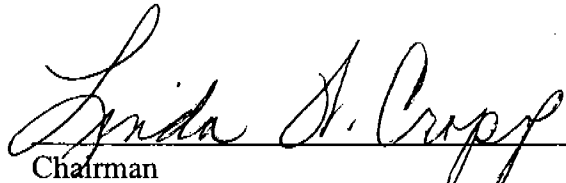
This act shall apply as of July 21, 2004.

Sec. 6. Fiscal impact statement.


The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).

Sec. 7. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
August 2, 2004

Government of the District of Columbia
Office of the Chief Financial Officer



Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: The Honorable Linda W. Cropp
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi
Chief Financial Officer

DATE: MAY 27 2003

SUBJECT: Fiscal Impact Statement: "Veterans of Foreign Wars Real Property Tax Exemption and Equitable Real Property Tax Relief Act of 2003"

REFERENCE: Bill 15-126 as Introduced

Conclusion

Funds are not sufficient in the FY 2003 budget and the proposed FY 2004 through FY 2007 budget and financial plan as agreed to by the Mayor and the Council of the District of Columbia. The proposed legislation will result in tax refunds and foregone real property tax, thus reducing the local General Fund. The proposed legislation will result in unbudgeted costs of approximately \$3,200 from real property tax refunds in FY 2003 and \$7,600 in refunds and foregone revenue in FY 2003 through FY 2007.

Background

The proposed legislation approves a real property tax exemption for property located in Square 5167, Lot 0040 located at 1601 Kenilworth Avenue, N.E. The property is used, owned and occupied by the Department of the District of Columbia Veterans of Foreign Wars. In addition, the proposed legislation foregoes all real property taxation, fees, interest and penalties on the subject property for a period beginning May 1, 2002. The occupants would be entitled to a refund of all amounts paid for real property taxes assessed during the period of May 1, 2002 to present.

9004

The Honorable Linda W. Jopp
 FIS: Bill 15-126, "VFW RPTx Exemption and
 Equitable RPTx Relief Act of 2003"
 Page 2 of 2

Financial Plan Impact

Funds are not sufficient in the FY 2003 budget and the proposed FY 2004 through FY 2007 budget and financial plan as agreed to by the Mayor and the Council. The Department of the District of Columbia Veterans of Foreign Wars has never petitioned for real property tax exemption with the Office of Tax and Revenue. Under D.C. Official Code § 47-1002 a veteran group or a club would not qualify for an exemption.

The Department of the District of Columbia Veterans of Foreign Wars paid \$800 in FY 2002 and \$2,405 in FY 2003 which will need to be refunded by the provisions of the proposed legislation. The property is currently assessed at \$130,000 and would result in annual real property taxation of \$1,024. The following table represents the approximate foregone revenue, refunds and exempted taxation as a result of implementing the proposed legislation.

Revenue Impact to the Financial Plan (\$ in 000s)					
FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	TOTAL
(\$3.2)	(\$1.0)	(\$1.1)	(\$1.1)	(\$1.2)	(\$7.6)

As the property is owned by the Department of the District of Columbia Veterans of Foreign Wars, Deed Recordation and Deed Transfer taxes are not impacted by the proposed legislation.

The Chief Financial Officer's legislative fiscal analysis is prepared by the Special Projects and Fiscal Analysis Administration in the Office of Research and Analysis. Contact us at 441 4th Street, NW, Suite 400S, Washington D.C. 20001 or view our work on-line at <http://cfo.dc.gov>.